

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

SPLASH KINGDOM, INC.,	§	
dba as SPLASH KINGDOM FAMILY	§	
WATERPARK,	§	
aka, SPLASH KINGDOM	§	
WATERPARKS,	§	
	§	
Plaintiff.	§	
	§	
v.	§	No. 6:19-cv-604
	§	
TI SOLUTIONS, LLC,	§	
	§	
Defendant,	§	
	§	
v.	§	
	§	
KINGDOM PERSPECTIVES, G.P., LTD,	§	
dba as SPLASH KINGDOM FAMILY	§	
WATERPARK,	§	
aka, SPLASH KINGDOM	§	
WATERPARKS,	§	
KINGDOM PERSPECTIVES, LLC,	§	
dba as SPLASH KINGDOM FAMILY	§	
WATERPARK,	§	
aka, SPLASH KINGDOM	§	
WATERPARKS,	§	
KINGDOM PERSPECTIVES –	§	
GREENVILLE, LTD.,	§	
KINGDOM PERSPECTIVES –	§	
HUDSON OAKS, LTD.,	§	
KINGDOM PERSPECTIVES –	§	
NACOGDOCHES, LTD.,	§	
KINGDOM PERSPECTIVES –	§	
SHREVEPORT, LTD., and	§	
JOHNNY I. BLEVINS,	§	
	§	
Third-Party Defendants.	§	

**DEFENDANT'S FIFTH AMENDED
COUNTERCLAIMS AND THIRD-PARTY ACTIONS**

TO THE HONORABLE U.S. DISTRICT COURT:

Pursuant to Federal Rule of Civil Procedure 13, TI SOLUTIONS, LLC, Defendant, complaining of **SPLASH KINGDOM, INC.**, dba as SPLASH KINGDOM FAMILY WATERPARK, aka, SPLASH KINGDOM WATERPARKS, and **KINGDOM PERSPECTIVES, G.P., LTD**, dba as SPLASH KINGDOM FAMILY WATERPARK, aka, SPLASH KINGDOM WATERPARKS, **KINGDOM PERSPECTIVES, LLC**, dba as SPLASH KINGDOM FAMILY WATERPARK, aka, SPLASH KINGDOM WATERPARKS, **KINGDOM PERSPECTIVES – GREENVILLE, LTD.**, **KINGDOM PERSPECTIVES – HUDSON OAKS, LTD.**, **KINGDOM PERSPECTIVES – NACOGDOCHES, LTD.**, and **KINGDOM PERSPECTIVES – SHREVEPORT, LTD** (hereinafter “Splash Kingdom” or “Splash Kingdom Group”), and **JOHNNY I. BLEVINS**, and for causes of action presents its Fifth Amended Counterclaims and Third-Party Actions:¹

PARTIES AND SERVICE

1. TI SOLUTIONS, LLC, is a Texas limited liability company headquartered and operating in Smith County.

¹ This case was removed from state court. For consistency, TI Solutions refers to this pleading as its Fifth Amended Counterclaims and Third-Party Actions, following the original and four amendments in state court.

Splash Kingdom, Inc. v. TI Solutions LLC v. Splash Kingdom Group, No. 6:19-cv-604
TI Solutions’ Fifth Amended Counterclaims

2. SPLASH KINGDOM, INC., is a Texas corporation headquartered and operating in Van Zandt County. It does business as *Splash Kingdom*. It has entered an appearance; no citation or service is necessary. It is an undercapitalized and insolvent company. It has a substantial negative net worth.

3. KINGDOM PERSPECTIVES, G.P., LTD is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

4. KINGDOM PERSPECTIVES, LLC is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

5. KINGDOM PERSPECTIVES – GREENVILLE, LTD, is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

6. KINGDOM PERSPECTIVES – HUDSON OAKS, LTD, is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

7. KINGDOM PERSPECTIVES – NACOGDOCHES, LTD, is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

8. KINGDOM PERSPECTIVES – SHREVEPORT, LTD, is a Texas corporate entity. It has entered an appearance; no citation or service is necessary.

9. JOHNNY I. BLEVINS is an individual residing in Van Zandt County. He has entered an appearance; no citation or service is necessary.

JURISDICTION

10. The Court possesses jurisdiction pursuant to 28 U.S.C. § 1331, removed pursuant 28 U.S.C. § 1441(a), (c).

VENUE

11. Venue in the Eastern District of Texas is proper. The contract at issue was executed and performed in Van Zandt County, within the district.

FACTS IDENTIFYING THE PARTIES

12. Mr. Johnny I. Blevins has created a series of corporations for the purpose of running water parks. They all do business as *Splash Kingdom*, or *Splash Kingdom Family Waterparks*. For purposes of this pleading they are designated the *Splash Kingdom Group* or *Splash Kingdom entities*.

13. Kingdom Perspectives, G.P., Ltd. has filed a designation with the Secretary of State designating its operations under the assumed name as *Splash Kingdom*.

14. Kingdom Perspectives, LLC has filed a designation with the Secretary of State designating its operations under the assumed name as *Splash Kingdom*.

15. One or more of the other Splash Kingdom entities have filed designations with government agencies designating their operations under the assumed name as *Splash Kingdom*.

16. The remainder of the Splash Kingdom entities conduct business under the name of Splash Kingdom although they may not have filed a designation with a government agency.

17. Johnny I. Blevins is CEO and President of Splash Kingdom operations.

18. Mr. Blevins is also general partner of Kingdom Perspectives, GP, Ltd. *See* Tex. Secretary State filing for Kingdom Perspectives, GP, Ltd., June 30, 2005.

19. TI Solutions, LLC is a single-member small computer hardware and software contractor in Tyler. It is solely owned by Mr. Jeff Palmer. TI Solutions contracted with Splash Kingdom – which means all of the various Splash Kingdom Group entities, all owned and operated by Mr. Johnny Blevins, to install and operate certain hardware and software that together comprise the information technology infrastructure and architecture of Splash Kingdom Family Waterpark. TI Solutions,

LLC managed the computer system for all of the Splash Kingdom parks and entities named here.

20. TI Solutions is a merchant and the Splash Kingdom entities are buyers under the Texas Uniform Commercial Code. The parties' transactions and relationships fall under the Texas UCC. The terms also constitute a contract under Texas common law.

FACTS SUPPORTING TI SOLUTIONS' CONTRACT WITH SPLASH KINGDOM GROUP

21. The initial terms of the contract were:

- Three or four years ago, TI Solutions was hired by Johnny Blevins to provide IT services for all of the Splash Kingdom Group entities by managing, modifying and redesigning its data infrastructure.
- Therefore, TI Solutions' contract was with each the entities designated by Mr. Blevins with the Secretary of State as doing business as *Splash Kingdom*, including Kingdom Perspectives, G.P., Ltd. and Kingdom Perspectives, LLC, and each of the entities of the Greenville, Nacogdoches, Shreveport, Canton and Hudson Oak water parks.
- Once the modifications and redesigning were completed, TI Solutions would then provide monthly informational technology support for \$2,500 per month;
- TI Solutions would operate and maintain Splash Kingdom Group's computer network. The computer network is extensive. It compasses many locations. It includes point of sale equipment (electronic cash registers), computer servers (the hard drives), complex software, back-up procedures, and communication lines and equipment. The system involves a lot of computer equipment and technology.
- TI Solutions would provide and install hardware and software as needed or instructed by Splash Kingdom Group at its various locations;
- Sales tax would be charged and paid as required by Texas law;
- Payment by Splash Kingdom Group due immediately.

22. Mr. Blevins and his employees communicated with Mr. Palmer through emails, for instance, that designated that they were acting on behalf of “Splash Kingdom Waterparks.” This is evidence that Mr. Palmer contracted with Splash Kingdom Group.

23. The Splash Kingdom Group paid regularly. Each of these monthly payments were divided between the following companies for accounting and cash payment:

- a. KINGDOM PERSPECTIVES – GREENVILLE, LTD;
- b. KINGDOM PERSPECTIVES – HUDSON OAKS, LTD;
- c. KINGDOM PERSPECTIVES – NACOGDOCHES, LTD;
- d. KINGDOM PERSPECTIVES – SHREVEPORT, LTD;
- e. KINGDOM PERSPECTIVES – CANTON (Probably Splash Kingdom, Inc.)

24. Splash Kingdom Group admitted in an August 2017 letter by its attorney, Mr. Jon Smithson, that Splash Kingdom in fact owes three pre-fire invoices by TI Solutions. Splash Kingdom attached this letter to its petition against TI Solution. Mr. Smithson’s statements therefore constitute a judicial admission.

FACTS PERTAINING TO THE CANTON HOTEL VENTURE AND DEFAULT

25. In 2015-16, Mr. Blevins and investors set out to enlarge the waterpark, to add a hotel and amenities. Kingdom Perspectives G.P., Ltd. owns the land. This project is called the *Canton Hotel Venture*.

26. A partner in the project is Mr. Chad J. Encheff, President, C&E Group, Inc. Mr. Encheff and his company are the developer for the project. On June 24, 2015, Mr. Encheff signed a declaration to Mr. Blevins confirming what amounts to an indemnification agreement, to reimburse the City of Canton and any subcontractors.

27. On June 25, 2015, Mr. Blevins, on behalf of Kingdom Perspectives, G.P., Ltd., signed a *Letter of Intent* with Mr. Encheff, for C&E Group, Inc. and Laport Partners, LLC, for the construction of the Canton Hotel Venture, spelling out each other's roles, ownership percentages, and the order of work. This letter of intent was signed by Mr. Blevins, Mr. Encheff and Mr. James Laport.

28. In 2015, Mr. Encheff, for C&E Group, Inc., borrowed \$176,000 from the Canton Economic Development Corporation and executed a *Loan Agreement* to that effect.

29. On July 1, 2015, Mr. Encheff, and his partner, Mr. Kurt Carlson, signed an *Intent to Issue a Person[all] Guarantee*, promising \$400,000 of personal liability to Kingdom Perspectives, LLC for the Canton Hotel Venture.

30. On July 3, 2015, Mr. Encheff, for C&E Group, Inc., Mr. Blevins, for Kingdom Perspectives, G.P., Ltd., executed a *License Agreement Consent to Enter on Property and Perform Site Preparation Work*.

31. On April 11, 2016, Mr. Encheff, for C&E Group General Contractors, Inc., executed a subcontractor construction agreement with R. Guerrero Construction, LLC, for construction of the Canton Hotel and amenities.

32. R. Guerrero Construction and its crews worked hard to build the facilities through 2016. According to the construction company, however, Kingdom Perspectives and its investors defaulted on \$663,000 of construction invoices.

33. In November 2016, R. Guerrero Construction sued Kingdom Perspectives for its money in the 294th District Court, Van Zandt County. The case number is 16-00306. That case developed through discovery and hearings. It is still pending for trial.

34. Likewise, another project supplier, Tyson & Billy Architects, P.C., went unpaid. Tyson & Billy Architects, P.C. filed suit against Kingdom Perspectives G.P., Ltd. That case is pending in this court in cause 6:19-cv-53.

FACTS PERTAINING TO THE APRIL 2017 FIRE AND INSURANCE CLAIMS

35. Meanwhile, in April 2017, a fire gutted the offices of the Splash Kingdom waterpark in Canton. The fire destroyed the expensive and complex computer system that operated all the Splash Kingdom Group water parks and Kingdom Perspectives, G.P., Ltd. and Kingdom Perspectives, LLC.

36. The fire was covered by at least two insurance policies. Mr. Blevins and his wife Marci Blevins had a policy with Allstate Insurance. They made claims for loss of personal property and received payments of more than \$200,000 from Allstate. The larger policy was provided by Berkley Fire & Marine Underwriters, which covered the Splash Kingdom Group entities.

37. Mr. Blevins and the Splash Kingdom Group hired insurance consultants to investigate and document its claims for submission to Berkley Fire & Marine Underwriters and perhaps also Allstate. These consultants were:

- a. Mr. Tim O'Donnell, Haas & Wilkerson Insurance;
- b. Mr. Steven Phillips, Executive General Adjuster, Engle Martin & Associates;
- c. Matson, Driscoll & Damico, LLP, CPAs (this firm may have been retained by Berkley Fire and Marine instead);

d. Mr. Bill Eaton, Regional Manager, Cotton Commercial USA, Inc.

38. When the fire was extinguished, Mr. Blevins, for Splash Kingdom Group, ordered TI Solutions (Mr. Palmer) to drop everything and re-build the computer network and get the business running quickly for the summer season. We learned at his deposition that Mr. Blevins had no intention of paying TI Solutions or Mr. Palmer for his work. Mr. Blevins intended to induce TI Solutions and Mr. Palmer fraudulently to repair the computer network for the Splash Kingdom companies, obtain the benefits of their work, then refuse to pay them anything. Mr. Blevins planned to wait until the work was complete or nearly complete, then fire TI Solutions, accusing of poor work or some other pretext. Mr. Blevins knew that Splash Kingdom, Inc. was insolvent and lacked ability to pay when he made these representations to Mr. Palmer and TI Solutions.

39. Mr. Palmer did as asked. To this end, Splash Kingdom Group and TI Solutions executed a UCC-recognized contract for the purpose. Here are examples of some of the UCC confirming writings that verify the terms of the contract:

From: mandy@splashkingdomwaterpark.com
Sent: Friday, April 28, 2017 4:22 PM
To: Jeffrey D. Palmer II
Subject: FW: SK POS

Hey Jeff,

I know Johnny wants to get pricing information on the all in one units of the POS. Is that something you guys can get for me? Also, have you ordered the touch screen monitors yet? Are you guys looking at computers for us? I think johnny wants to go with laptops for everyone. I'm sure we will have more information Monday, just trying to get the balls rolling.

Thanks so much,

Mandy

From: Mandy Morris <mandy@splashkingdomwaterpark.com>
Sent: Tuesday, May 2, 2017 12:35 PM
To: Jeffrey D. Palmer II
Subject: RE: Quote

Jeff,

Are these POS the all in ones or are they the set up like Nac? Also are the scanners the symbol ones?

How fast can we get the POS and bocas?

Mandy Morris

Corporate Operations/Training
Splash Kingdom Waterparks

From: Mandy Morris <mandy@splashkingdomwaterpark.com>
Sent: Wednesday, May 10, 2017 3:45 PM
To: Jeffrey D. Palmer II
Subject: Information for Wire

Jeff,

We need to get the following information to wire you guys the money for the equipment:

Name of Bank and Address of Bank
Routing #
Account #
Name on Account

Thanks!

Mandy Morris

Corporate Operations/Training
Splash Kingdom Waterparks

From: Mandy Morris <mandy@splashkingdomwaterpark.com>
Sent: Wednesday, May 24, 2017 3:24 PM
To: Jeffrey D. Palmer II
Subject: VoIP for Canton

Jeff,

Mickey said that you guys can get us set up with voip service in canton, is this correct? Johnny is wanting to go that route for our phone system.

Mandy Morris
Corporate Operations/Training
Splash Kingdom Waterparks

From: Mandy Morris <mandy@splashkingdomwaterpark.com>
Sent: Thursday, May 25, 2017 9:44 AM
To: Jeffrey D. Palmer II
Subject: RE: VoIP for Canton

Phones – Probably 11 phones to start. As far as lines, does VoIP have lines? I know the service in nac doesn't. It just keeps rolling over. We did have 5 regular lines and a fax line with our landline.

Mandy Morris
Corporate Operations/Training
Splash Kingdom Waterparks

40. Mr. Palmer succeeded, incurring considerable time and money. To get things running while new equipment was ordered, Mr. Palmer installed a lot of his own computer equipment, loaning it to Splash Kingdom, with Mr. Blevins' knowledge and consent. Splash Kingdom still has some \$8,000 of Mr. Palmer's equipment.

41. Soon after the fire was extinguished, Mr. Blevins asked Mr. Palmer to list the cost of computer equipment to rebuild the system. Mr. Blevins needed a check immediately from Berkley Fire and Marine for the equipment so it could be ordered. Mr. Palmer wrote up and gave Mr. Blevins a \$47,561.60 invoice for replacement equipment. Mr. Blevins submitted that equipment-only \$47,561.60 invoice to Berkley Fire and Marine, which rushed payment of \$47,561.60 to Mr. Blevins. Mr. Blevins

handed the money to Mr. Palmer, who immediately ordered the equipment. Equipment began arriving within days. Mr. Palmer worked non-stop to install the equipment in stages. He got most of the system up and running within 30 days, using his own equipment, before the first school trips to the waterpark. He worked through the summer to complete the rest of the system, in stages, replacing his equipment with new equipment. Some of the equipment cost less than expected. Splash Kingdom is entitled to a credit for the savings.

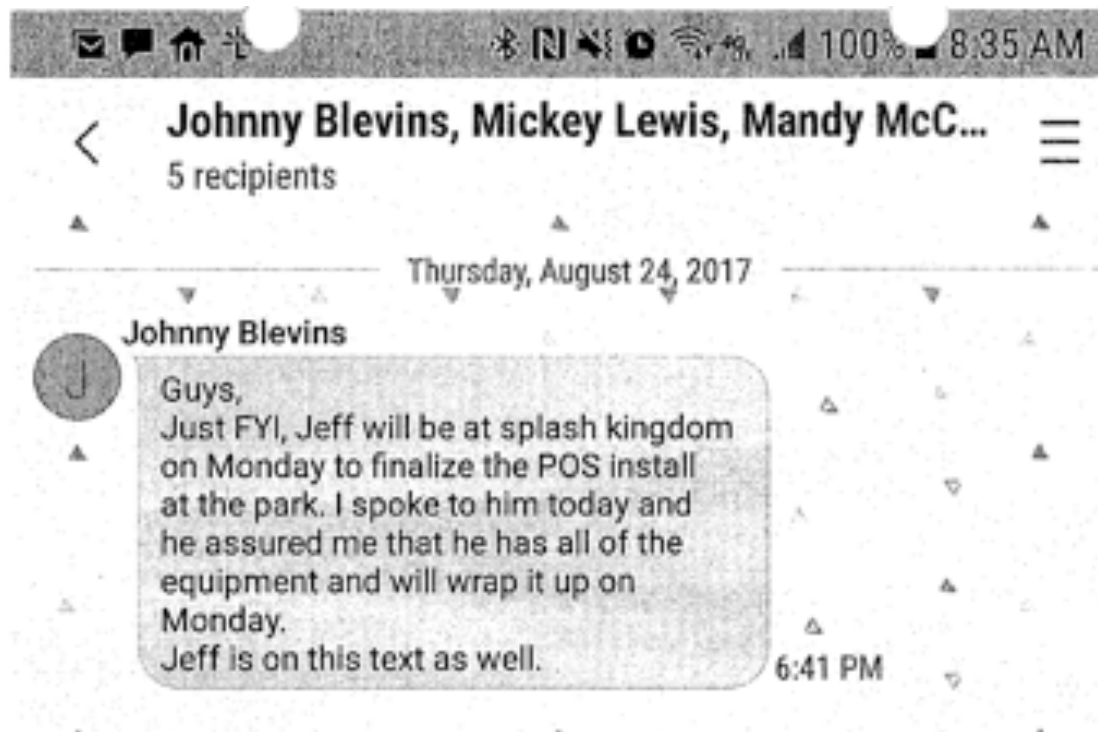
42. Mr. Blevins and his consultants submitted a supplement claim to Berkley Fire and Marine for Mr. Palmer's installation costs. Here is the labor portion of the claim we believe Mr. Blevins submitted to his own insurance company, listing \$65,000 of labor costs to rebuild the computer network:

Insurance "bucket"	Value	Loss	Payment	Payment	Notes
Main Building Facility	\$1,200,000.00	total	\$1,200,000.00	\$904,000.00	This amount has been agreed and paid.
Business Personal Property	\$860,000.00	total	\$860,000.00	\$860,000.00	Total loss of everything inside the building and may items surrounding - blanket policy
Personal Property	\$50,000.00		\$45,000.00	\$45,000.00	Managers personal items in the offices including Johnny and Marci 12 years of operations
Remaining Debris Removal	\$150,000.00		\$100,000.00	\$50,000.00	removal of remaining concrete and debris
Landscape replacement	\$250,000.00		\$150,000.00	\$120,000.00	all front of park landscape has died from the fire or lack of irrigation system - other repairs needed from heavy equipment
Canton Lost Revenue	\$2,895,000.00		\$1,200,000.00	\$900,000.00	We could have not opened at all until we rebuilt the operations office and entry - placed all focus on opening to save \$\$
Corporate Lost Revenue	\$600,000.00		\$300,000.00	\$200,000.00	This was a a total los of a season for the Corporate office management due to fire - no ability to plan or manage, just survive
Effect on other locations	\$800,000.00		\$400,000.00	\$200,000.00	The effect on the parks that are supported from Corporate is at least \$200K each
additional expenses from Fire	\$300,000.00		\$300,000.00	\$300,000.00	Items that were purchased or additional staff necessary to open or operate
Future lost revenue (restoration period)	\$400,000.00		\$200,000.00	\$200,000.00	Canton has lost a section of guests that have found a new summer activity
future additional expenses (restoration)	\$200,000.00		\$100,000.00	\$50,000.00	We will need a major marketing campaign in 2018 to reinforce our operation
additional marketing/ pricing cost	\$300,000.00		\$150,000.00	\$150,000.00	groupon expense - we had to do Groupon tickets this year to increase the awarness that SK was still open.
Additional Marketing contractor	\$50,000.00		\$50,000.00	\$50,000.00	
Rental of buildings on site	\$25,000.00		\$0.00	\$25,000.00	If I can use funds to purchase an offsite corporate office location, we can have all rental buildings removed earlier
repositioning of buildings	\$8,000.00		\$0.00	\$6,000.00	If I can use funds to purchase an offsite corporate office location, we can have all rental buildings removed earlier
removal of rental buildings	\$2,000.00		\$0.00	\$2,000.00	If I can use funds to purchase an offsite corporate office location, we can have all rental buildings removed earlier
valuable paper recovery	\$250,000.00		\$50,000.00	\$50,000.00	All corporate documents for 8 companies over the past 12 years - legal, accounting, sales, etc.
Fine Arts	\$100,000.00		\$60,000.00	\$60,000.00	Primarily the custom artwork made for the 3-D glow in the dark Mini-Golf course, and a few smaller art pieces in the office
Sales Rep Samples	\$50,000.00		\$15,000.00	\$15,000.00	
temporary Networking - for summer				\$30,000.00	
Removal of network after summer				\$10,000.00	
reinstallation of network after const.				\$20,000.00	
Removal / Storage of equipment				\$6,000.00	
Engineering of new facilities				\$40,000.00	
Software storage	\$50,000.00		\$5,000.00	\$5,000.00	
Equipment Breakdown Coverage			\$30,000.00	\$30,000.00	Replacement of sand in pool filters. They are not functioning as well after all of the soot and debris blew and washed into pools
	\$8,540,000.00		\$5,155,000.00	\$4,328,000.00	
Canton Operation lost the Guest service manager 2 weeks after the fire - the stress and lack of office was too much					
Hudson Oaks manager resigned the end of July - Corporate was not able to give her the assistance we promised and expected					

43. Responding to the litigation by R. Guerrero Construction, Mr. Blevins and the Splash Kingdom Group attorney were remarkably cordial to Mr. Palmer. They asked him to assist them with aspects of document production and control for the

litigation. Mr. Palmer did so. A portion of the final unpaid invoice is for litigation support work on the Guerrero lawsuit.

44. Mr. Palmer's final day to install the remaining equipment was to be Monday, August 28, 2017. On Thursday, August 24, 2017, Mr. Blevins sent this text to his staff, informing that Mr. Palmer would install the remaining equipment and complete reconstruction:



45. TI Solutions, through Mr. Palmer, invoiced Splash Kingdom for its work and equipment expenses. The four invoices are attached as ***Exhibit 1***, and incorporated herein:

Invoice 1212, June 20, 2017, \$3,259.15.

Invoice 1235, July 20, 2017, \$2,706.25.

Invoice 1259, August 20, 2017, \$3,315.90.

Invoice 1264, July 31, 2017, \$53,038.25

(covering May – July 2017)

Total due: \$62,319.55, after all payments, credits and offsets.

46. With Texas Finance Code § 302.002 pre-judgment interest of \$9,376.31 through January 24, 2020, the balance owed is \$71,695.86, with additional interest accumulating through trial.

47. It appears that Mr. Blevins learned approximately August 25 that the Van Zandt County District Court had *granted* R. Guerrero Construction's motion to compel turnover of the computer system hard drives and contents. This was the project on which Mr. Palmer had been assisting. Mr. Blevins concluded that he he wanted sole control of the hard drives in his hands, not Mr. Palmer's and therefore saw no further use for Mr. Palmer. Before Mr. Palmer arrived the morning of Monday, August 28, Mr. Blevins summarily cancelled the remaining work. In his cancellation letter, Mr. Blevins' lawyer acknowledged that Splash Kingdom owed three months of pre-fire maintenance fees, about \$9,300, plus expenses and interest:

7. Accounting for Invoices of TI Solutions for Ongoing Consulting Services. TI Solutions and Splash Kingdom have operated under a month to month consulting agreement (the "Monthly Consulting Services"). On Thursday evening August 24, 2017, you delivered invoices for the

months of May, June, July and August, 2017, and ask to be paid on Friday morning, August 25, 2017. You subsequently confirmed that the May invoice had been paid in full. The amount of the remaining invoices are not in dispute and will paid as a part of the final resolution of the disputes described in this letter.

See Letter of August 28, 2017 by Jon Smithson.

48. What appears to have occurred is that during the final week of August 2017, Mr. Blevins and Mr. Smithson determined that they no longer needed Mr. Palmer's expertise to defend or manage document production in the R. Guerrero Construction litigation against the Splash Kingdom entities. Mr. Blevins had planned all along to terminate TI Solutions and Mr. Palmer at the right time, after extracting their labor, and never pay the TI Solutions' invoices for the post-fire computer network repair work.

49. Notwithstanding that it acknowledges owing the money, Splash Kingdom Group steadfastly refuses to pay TI Solutions the routine pre-fire monthly maintenance fees.

50. Despite demands, Splash Kingdom Group has refused payment.

51. We now know that Mr. Blevins, Splash Kingdom's owner, never intended to pay Mr. Palmer and TI Solutions. He waited until the system was nearly complete to cancel the contract when he had obtained most of the benefits of Mr. Palmer's labor. Mr. Blevins and his consultants submitted charges to Berkley Fire and Marine for the costs of repairing the computer system.

52. Berkley Fire and Marine and the Splash Kingdom Group finally settled the fire claim for \$3.2 million. This settlement payment included Mr. Palmer's TI Solutions' labor and invoices. But Mr. Blevins and Splash Kingdom group pocketed all or most of the TI Solutions money paid by Berkley Fire and Marine.

54. TI Solutions has completed all conditions precedent.

COUNT 1
DECLARATORY JUDGMENT ACTION

55. TI Solutions is a company whose rights, status, or other legal relations are affected by a contract. It seeks declaratory judgment pursuant to Chapter 37 of the Texas Civil Practice and Remedies Code. TI Solutions asks that a court of record within its jurisdiction to declare the rights, status, and other legal relations of TI Solutions, as they pertain to Splash Kingdom Family Waterpark entities.

COUNT 2
BREACH OF CONTRACT OR AGREEMENT UNDER THE UCC

56. TI Solutions asserts that the Splash Kingdom Group entities and Johnny Blevins breached their contract with TI Solutions, proximately causing financial damages, as set forth above.

57. The contract is controlled by the Texas Uniform Commercial Code. Tex. Bus. & Comm. Code § 1.101 (2015), *et seq.*

58. TI Solutions and the Splash Kingdom entities and Johnny Blevins had an “agreement” as defined by the UCC. “Agreement,” as distinguished from ‘contract’ means the bargain of the parties in fact, as found in their language, course of dealing, or usage of trade, as provided in Section 1.303.” Tex. Bus. & Comm. Code § 1.201(b)(3) (2015).

59. The Splash Kingdom entities and Johnny Blevins qualify as a “buyer in the ordinary course of business” under the UCC. “Buyer in ordinary course of business” means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged

or with the seller's own usual or customary practices.” Tex. Bus. & Com. Code § 1.201(b)(9) (2015).

60. The Splash Kingdom entities and Johnny Blevins also qualify as a buyer. “Buyer” means a “person who buys or contracts to buy goods.” Tex. Bus. & Com. Code § 2.103(a)(1) (2015).

61. TI Solutions qualifies as a UCC merchant. “Merchant” means a person who deals in goods of the kind or otherwise by his occupation holds himself out as having knowledge or skill peculiar to the practices or goods involved in the transaction or to whom such knowledge or skill may be attributed by his employment of an agent or broker or other intermediary who by his occupation holds himself out as having such knowledge or skill.” Tex. Bus. & Com. Code § 2.104(a) (2011).

COUNT 3
BREACH OF CONTRACT UNDER COMMON LAW

62. In addition, or alternatively, incorporating the above, TI Solutions asserts that it had an oral contract with the Splash Kingdom entities and Johnny Blevins for delivery, installation, and maintenance of information technology at Splash Kingdom entities’ facilities. The Splash Kingdom entities and Johnny Blevins breached that contract by non-payment, proximately causing financial damages to TI Solutions.

COUNT 4
SUIT ON VERIFIED ACCOUNT

63. Alternatively, TI Solutions would show that at the special insistence of the Splash Kingdom entities and Johnny Blevins TI Solutions provided the service described in the attached invoices. The Splash Kingdom entities became bound to pay the reasonable value of the services rendered by the TI Solutions under the terms of the contract between the parties. The reasonable value of the unpaid services by TI Solutions at the request of the Splash Kingdom entities and Johnny Blevins is

\$62,319.55, after all payments, credits and offsets. This sum is a liquidated money demand arising out of business dealings between the parties for which a systematic record has been kept, and all lawful offsets, payments and credits have been allowed. Though often requested, the Splash Kingdom entities have failed and refused and continue to refuse to pay the amount owed.

COUNT 5
QUANTUM MERIT CLAIM

64. Alternatively, services were rendered to the Splash Kingdom entities by TI Solutions that Splash Kingdom entities received and used for commercial purposes. As a direct result of TI Solutions' delivery of services constituted a benefit was conferred upon the Splash Kingdom Group entities in that it had the beneficial use and enjoyment and commercial profitable use of the services. The Splash Kingdom entities accepted the services. The reasonable value of the unpaid services by TI Solutions at the request of the Splash Kingdom entities is \$62,319.55, after all payments, credits and offsets. This sum is a liquidated money demand arising out of business dealings between the parties for which a systematic record has been kept, and all lawful offsets, payments and credits have been allowed. Though often requested, the Splash Kingdom entities have failed and refused and continues to refuse to pay the amount owed. TI Solutions has presented the claim above described to Splash Kingdom entities for payment. The Splash Kingdom entities have refused. The Splash Kingdom entities will be unjustly enriched in the amount of the claim if allowed to keep the benefit conferred without payment for the reasonable value of the services provided by TI Solutions.

COUNT 6

COMMON LAW FRAUD CLAIM (FRAUDULENT MISREPRESENTATION)

65. TI Solutions incorporates the above by reference. Splash Kingdom Group's and Mr. Johnny I. Blevins' actions constitute common law fraud, causing financial losses to TI Solutions. Splash Kingdom and Mr. Blevins represented to TI Solutions that it would be fully paid all fees and expenses if Mr. Palmer dropped everything and rebuilt the fire-destroyed computer network. Further, Splash Kingdom represented that it would receive money from the insurance company to pay all of TI Solutions labor costs and expenses, therefore payment was secure. TI Solutions relied on those promises and representations. Splash Kingdom and Mr. Blevins, however, at the time it made those promises and representations had no intention of keeping them. Instead, Splash Kingdom Group and Mr. Blevins intentionally and knowingly submitted claims for payment of the computer network repair labor and expenses, was paid by Berkley Fire and Marine, and pocketed the money, with never intent to pay TI Solutions. TI Solutions suffered substantial financial damages as proximate cause of Splash Kingdom Group's and Mr. Blevins' fraud.

Count 7

**FRAUDULENT INDUCEMENT CLAIM AGAINST
MR. JOHNNY I. BLEVINS AND SPLASH KINGDOM GROUP ENTITIES**

66. TI Solutions incorporates the above by reference. Splash Kingdom Group's and Mr. Blevins' acts and omissions constitute the tort of common law fraudulent inducement against Mr. Palmer and TI Solutions, LLC. They made their representations to Mr. Palmer and TI Solutions, with the intent that they act on it, knowing the representation were false.

COUNT 8
CLAIM FOR IMPOSITION OF CONSTITUTIONAL LIEN AGAINST
KINGDOM PERSPECTIVES, G.P., LTD REAL AND PERSONAL PROPERTY

67. TI Solutions incorporates the above by reference. TI Solutions asserts a claim against Splash Kingdom Group's computer network and equipment, to the extent of its lawful unpaid claim, and to the extent of work performed on such computer network, pursuant to Article XVI, Section 37 of the Texas Constitution:

Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labor done thereon, or material furnished therefore; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

Tex. Const. Art. XVI, § 37.

68. TI Solutions further asserts a claim against the real property of Kingdom Perspectives, G.P., Ltd., Kingdom Perspectives, LLC, Kingdom Perspectives -- Shreveport, LLC, Kingdom Perspectives -- Nacogdoches, LLC, Kingdom Perspectives -- Hudson Oaks, LLC, Kingdom Perspectives -- Greenville, LLC, to the extent of its lawful unpaid claim, and to the extent of work performed on such computer network that benefited such real property, pursuant to Article XVI, Section 37 of the Texas Constitution.

69. TI Solutions requests a judgment imposing a lien under this provision against Splash Kingdom Group's computer network and equipment, and the real property of Kingdom Perspectives, G.P., Ltd., Kingdom Perspectives, LLC, Kingdom Perspectives -- Shreveport, LLC, Kingdom Perspectives -- Nacogdoches, LLC, Kingdom Perspectives -- Hudson Oaks, LLC, Kingdom Perspectives -- Greenville, LLC, to the extent of its lawful unpaid claim, and to the extent of work performed on such computer network and that benefited such real property. *See Hayek v. Western Steel Co.*, 478 S.W.2d 786 (Tex. 1972); *Rhoades v. Miller*, 414 S.W.2d 942 (Tex. Civ. App. - Tyler 1967,

no writ); *A&M Operating Co., Inc. v. South Coast Supply Co., Inc.*, 182 B.R. 997 (E.D. Tex. 1995) (reconciling conflicting state decisions and finding creditor entitled to lien on debtor property under Texas Constitution), *aff'd*, 84 F.3d 433 (5th Cir. 1996).

COUNT 9
PRE-JUDGMENT INTEREST

70. Pursuant to Tex. Fin. Code § 302.002, TI Solutions requests pre-judgment interest on its invoices at 6% statutory interest from the 30th day from the date on which the invoiced amounts were due.

COUNT 10
EXEMPLARY DAMAGES

71. TI Solutions would further show that the acts of the Splash Kingdom Group entities and Johnny Blevins complained of herein were, by clear and convincing evidence, committed knowingly, willfully, intentionally, with actual malice and awareness. In order to punish the Splash Kingdom entities and Johnny Blevins for such conduct to deter such actions in the future, TI Solutions also seeks recovery from the Splash Kingdom Group entities and Johnny Blevins for exemplary damages as provided by Section 41.003(a)(2) of the Texas Civil Practice and Remedies Code.

COUNT 11
ATTORNEY'S FEES

72. Request is made for all costs and reasonable and necessary attorney's fees and costs incurred by or on behalf of TI Solutions, including all fees necessary in the event of an appeal of this cause to the Court of Appeals and the Supreme Court of Texas, as the Court deems equitable and just, as provided by Chapters 37 and 38 of the Texas Civil Practice and Remedies Code. *See* Tex. Civ. Prac. & Rem. Code §§ 37.009, 38.001.

NOTICE OF PARTNERSHIP LIABILITY

73. Mr. Blevins is liable as a general partner for the actions of Kingdom Perspectives, GP, LP.

NOTICE

74. TI Solutions hereby gives notice to all parties to this lawsuit that TI Solutions will use in any pretrial proceeding or at the trial of this cause any document produced by any party or the TI Solutions in response to written discovery. Such documents shall include, but are not limited to, correspondence and discovery responses.

CONCLUSION

75. **WHEREFORE, PREMISES CONSIDERED**, TI SOLUTIONS, LLC respectfully asks that upon a final hearing of the cause, judgment be entered for the TI Solutions against **JOHNNY I. BLEVINS, SPLASH KINGDOM, INC.**, dba as **SPLASH KINGDOM FAMILY WATERPARK**, aka, **SPLASH KINGDOM WATERPARKS**, and **KINGDOM PERSPECTIVES, G.P., LTD**, dba as **SPLASH KINGDOM FAMILY WATERPARK**, aka, **SPLASH KINGDOM WATERPARKS**, **KINGDOM PERSPECTIVES, LLC**, dba as **SPLASH KINGDOM FAMILY WATERPARK**, aka, **SPLASH KINGDOM WATERPARKS**, **KINGDOM PERSPECTIVES – GREENVILLE, LTD.**, **KINGDOM PERSPECTIVES – HUDSON OAKS, LTD.**, **KINGDOM PERSPECTIVES – NACOGDOCHES, LTD.**, and **KINGDOM PERSPECTIVES – SHREVEPORT, LTD** for the damages requested hereinabove in an amount in excess of the minimum jurisdictional limits of

the Court, together with prejudgment and post-judgment interest at the maximum rate allowed by law, attorney's fees, costs of court, and such other and further relief to which the TI Solutions may be entitled at law or in equity, whether pled or unpled. TI Solutions seeks monetary relief of more than \$200,000 but less than \$1 million.

Respectfully submitted this 8 day of January 2020.

James W. Volberding

By: _____
JAMES W. VOLBERDING
SBN: 00786313

VOLBERDING LAW FIRM
Plaza Tower
110 North College Avenue
Suite 1850
Tyler, Texas 75702
(903) 597-6622 (Office)
(866) 398-6883 (Fax)
email: jamesvolberding@gmail.com

ATTORNEY FOR THE DEFENDANT,
TI SOLUTIONS, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this pleading has been delivered this 8 day of January 2020 (by electronic filing) to:

Mr. Williams S. Hommel, Jr.
Hommel Law Firm
1404 Rice Road
Suite 200
Tyler, Texas 75703

by the following means:

_____ By U.S. Postal Service Certified Mail, R.R.R.
_____ By First Class U.S. Mail
_____ By Special Courier _____
_____ By Hand Delivery
_____ By Fax before 5 p.m.
_____ By Fax after 5 p.m.
__X__ By email to Mr. Hommel by PDF
_____ By email to
__X__ By e-filing service.

/s/ James W. Volberding

JAMES W. VOLBERDING

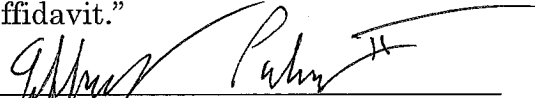
AFFIDAVIT OF JEFF PALMER

Before me, the undersigned authority, on this day personally appeared the undersigned affiant, Jeff Palmer, who being by me duly sworn, upon oath stated:

1. "My name is Jeff Palmer, sole owner and member of TI Solutions, LLC.
2. "I am legally qualified to make this affidavit.
3. "I swear and affirm that the information in this affidavit is true and correct and from my personal knowledge.
4. "I have care, custody and control of all records for TI Solutions, LLC and Splash Kingdom Family Waterpark, the entities named.
5. "These records show that a principal balance of \$62,319.55, after all payments, credits and offsets, exclusive of interest is due and payable by the Splash Kingdom entities. True and correct copies of these invoices are attached in Exhibit 1. This sum is a liquidated money demand arising out of business dealings between TI Solutions and Splash Kingdom for which a systematic record has been kept, and all lawful offsets, payments and credits have been allowed. TI Solutions has repeatedly demanded payment by Splash Kingdom more than 30 days prior to filing suit, and payment for the just amount owing has not been tendered by Splash Kingdom. Though often requested, Splash Kingdom has failed and refused and continues to refuse to pay the amount owed.
6. "Exhibit 4 contains true and correct text messages with Splash Kingdom employees confirming the services requested by Splash Kingdom and delivered by TI Solutions.

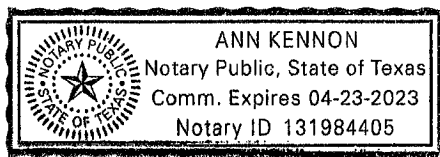
7. "TI Solutions was required to hire an attorney and pay reasonable and necessary attorneys fees to recover the money owed by Splash Kingdom.

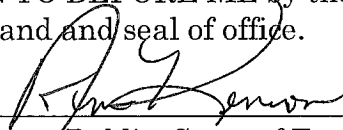
8. "This statement completes my affidavit."



Jeff Palmer

SUBSCRIBED AND SWORN TO BEFORE ME by the said Affiant on June 14, 2019, to certify which witness my hand and seal of office.





Notary Public, State of Texas

My Commission Expires: 04.23.2023

EXHIBIT 1



TI Solutions LLC

102 N. College
Suite 102
Tyler, Texas 75701

Invoice

Bill To:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Invoice #: 1212**Invoice Date:** 6/20/2017**Due Date:** 6/20/2017**Project:****P.O. Number:**

Serviced	Description	Hours/Qty	Rate	Amount
	Monthly IT Support and Services for in-season.		2,500.00	2,500.00T
	Hudson Oaks - Battery		45.862	45.86T
	Shreveport - Break Room for TimeClock		51.7385	51.74T
	Shreveport - Misc. Cables		5.00	5.00T
	Hudson Oaks - (3) USB Data Hubs		103.4655	103.47T
	Hudson Oaks - (3) USB Cables		34.4655	34.47T
	Hudson Oaks - (2) USB Data Hubs		22.977	22.98T
	Hudson Oaks - Misc. Cables		63.25	63.25T
	Greenville - Main Switch		183.9885	183.99T
	Sales Tax		8.25%	248.39

Total	\$3,259.15
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Payments/Credits	\$0.00
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Balance Due	\$3,259.15
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9037803160

admin@tisolutionstx.com

www.TISolutionsTX.com

102 N. College
Suite 102
Tyler, Texas 75701

Invoice #: 1235
Invoice Date: 7/20/2017
Due Date: 7/20/2017
Project:
P.O. Number:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Balance Due	\$2,706.25
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9037803160	admin@tisolutionstx.com	www.TISolutionsTX.com
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TI Solutions LLC

102 N. College
Suite 102
Tyler, Texas 75701

Invoice

Invoice #: 1259

Invoice Date: 8/20/2017

Due Date: 8/20/2017

Project:

P.O. Number:

Bill To:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Serviced	Description	Hours/Qty	Rate	Amount
7/17/2017	Monthly IT Support and Services for in-season.		2,500.00	2,500.00T
7/12/2017	(2) Battery Backups - Canton	2	45.862	91.72T
	(2) Battery Backups - Canton		57.4885	57.49T
	120GB SSD - Shreveport		63.2385	63.24T
	120GB SSD - Shreveport Matt		172.4885	172.49T
	Unifi AP AC LR PPro Access		178.25	178.25T
	Sales Tax		8.25%	252.71

Total \$3,315.90

Payments/Credits \$0.00

Balance Due \$3,315.90

9037803160

admin@tisolutionstx.com

www.TISolutionsTX.com



TI Solutions LLC

102 N. College
Suite 102
Tyler, Texas 75701

Invoice

Invoice #: 1264
Invoice Date: 7/31/2017
Due Date: 7/31/2017
Project:
P.O. Number:

Bill To:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Serviced	Description	Hours/Qty	Rate	Amount
	Hosting Solutions	2	629.99	1,259.98T
	Jeff Palmer Mileage for (11) seperate trips to Splash Kingdom	465.3	0.535	248.94
5/17/2017	Drive to Nacogdoches to configure computers for new domain.	7	100.00	700.00T
5/17/2017	Trip to Nacogdoches	147.4	0.535	78.86
5/19/2017	Drive to Greenville to configure computers for new domain - Regular Time	6.83	100.00	683.00T
5/19/2017	Drive to Greenville to configure computers for new domain - Overtime	1.66	150.00	249.00T
5/19/2017	Trip to Greenville	161.4	0.535	86.35
5/26/2017	Drive from various locations to procure monitors for temporary setup, includes temporary setup. - Regular Time	9.25	100.00	925.00T
5/26/2017	Drive to Greenville to configure computers for new domain - Overtime	0.75	150.00	112.50T
5/26/2017	Trip to Canton	95.3	0.535	50.99
7/18/2017	Setup new touch screen POS's - Regular Time	0.5	100.00	50.00T
7/18/2017	Setup new touch screen POS's - Overtime	3.5	150.00	525.00T
7/18/2017	Trip to Canton	94.8	0.535	50.72
7/28/2017	Adjust WiFi APs	8	100.00	800.00T
7/28/2017	Trip to Cancon	94.8	0.535	50.72
5/9/2017	Trip to Canton to setup temp equipment and configure software - Regular Time	5.25	100.00	525.00T
5/9/2017	Trip to Canton to setup temp equipment and configure software - Overtime	8.5	150.00	1,275.00T
5/9/2017	Reimbursement for Trip to Canton	86.9	0.535	46.49
5/12/2017	Trip to Hudson Oaks to configure computers for new temp domain, continue setup new & temp equipment, configure software - Overtime	2	150.00	300.00T
5/12/2017	Trip to Hudson Oaks to configure computers for new temp domain, continue setup new & temp equipment, configure software - Regular Time	8.66	100.00	866.00T

Total
Payments/Credits
Balance Due

9037803160

admin@tisolutionstx.com

www.TISolutionsTX.com



TI Solutions LLC

102 N. College
Suite 102
Tyler, Texas 75701

Invoice

Invoice #: 1264

Invoice Date: 7/31/2017

Due Date: 7/31/2017

Project:

P.O. Number:

Bill To:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Serviced	Description	Hours/Qty	Rate	Amount
5/12/2017	Reimbursement for Trip to Hudson Oaks & Canton	308.3	0.535	164.94
5/17/2017	Setup temp equipment, configure software in canton - Regular Time	5.16	100.00	516.00T
5/17/2017	Setup temp equipment, configure software in canton - Overtime	4	150.00	600.00T
5/17/2017	Reimbursement for Trip to Canton	85.2	0.535	45.58
5/19/2017	Configure computers for new domain and get greenville ready	7.16	100.00	716.00T
5/19/2017	Reimbursement for Mileage	160.3	0.535	85.76
5/26/2017	Setup temp equipment	4.25	150.00	637.50T
5/28/2017	Fix centeredge configurations, fix receipt printer drivers - Regular Time	1.5	100.00	150.00T
5/28/2017	Fix centeredge configurations, fix receipt printer drivers - Overtime	1	150.00	150.00T
5/28/2017	Reimbursement for Trip to Canton	88	0.535	47.08
5/29/2017	Misc. Consulting related to fire	4.75	100.00	475.00T
5/29/2017	Reimbursement for Mileage	72.7	0.535	38.89
6/2/2017	Setup new POS's	3.83	100.00	383.00T
6/2/2017	Reimbursement for trip to Canton	90.7	0.535	48.52
6/30/2017	Working on new ticket printer and old ticker printer	1.35	100.00	135.00T
6/30/2017	Reimbursement for trip to canton	90.7	0.535	48.52
7/13/2017	Working on new ticket printer and Gate scanners	5.08	100.00	508.00T
7/13/2017	Reimbursement for Trip to Canton	91.5	0.535	48.95
7/18/2017	Working on Gare scanners - Overtime	3.25	150.00	487.50T
7/18/2017	Reimbursement for Trip to Canton	86.4	0.535	46.22
7/28/2017	Adjust wifi AP's	7	100.00	700.00T
7/28/2017	Reimbursement for Trip to Canton	92.2	0.535	49.33

Total
Payments/Credits
Balance Due

9037803160

admin@tisolutionstx.com

www.TISolutionsTX.com



TI Solutions LLC

102 N. College
Suite 102
Tyler, Texas 75701

Invoice

Invoice #: 1264

Invoice Date: 7/31/2017

Due Date: 7/31/2017

Project:

P.O. Number:

Bill To:

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Serviced	Description	Hours/Qty	Rate	Amount
	126 hours setting up hosted servers, rebuilding domain, setting up VPNs to hosted servers from all Parks, recovering data to hosted servers, rebuilding remote servers ldap, resolving issues with servers due to ldap DB loss and corruption. Helping with misc computer trust issues, data recovery, centeredge remote DB server communication due to right and trust loss. - REGULAR TIME	61	150.00	9,150.00T
	126 hours setting up hosted servers, rebuilding domain, setting up VPNs to hosted servers from all Parks, recovering data to hosted servers, rebuilding remote servers ldap, resolving issues with servers due to ldap DB loss and corruption. Helping with misc computer trust issues, data recovery, centeredge remote DB server communication due to right and trust loss. - OVERTIME	65	225.00	14,625.00T
	36 hours setting up computers with software, hardware, and park configurations.	36	100.00	3,600.00T
	5 hours configuring wireless and working with centeredge to have correct database information.	5	150.00	750.00T
	5 hours working with centeredge to create ticket print solution for new ticket printers.	5	150.00	750.00T
	19 hours configured and setting up new server, migrating hosted VMs to server integrating on site, configuring VPN's for all locations to main park.	19	150.00	2,850.00T
	16 hours replacing temporary loaned computers with purchased computers	16	100.00	1,600.00T
	8 hours misc ordering, communication with vendors, meetings, planning.	8	100.00	800.00T
	Sales Tax		8.25%	3,947.91

Total	\$53,038.25
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Payments/Credits	\$0.00
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Balance Due	\$53,038.25
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9037803160

admin@tisolutionstx.com

www.TISolutionsTX.com

EXHIBIT 2

JON D. SMITHSON, P.C.

Attorney & Counselor at Law

P.O. Box 9809

Tyler, Texas 75711

Telephone: (903) 592-4800
eFax: (214) 889-5000

jsmithson@SmithsonLaw.com
www.SmithsonLaw.com

August 28, 2017

HAND DELIVERED

CERTIFIED MAIL – RETURN RECEIPT REQUESTED
NO. 7016-0910-0001-2137-9571

Mr. Jeffrey D. Palmer II
TI Solutions, Inc.
102 N. College Avenue, Suite 102
Tyler, Texas 75702

Re: Contract to Provide POS Equipment on May 26, 2017

Dear Mr. Palmer:

I represent Splash Kingdom, Inc., regarding the purchase of certain computer equipment which it ordered through TI Solutions, Inc., (the “POS Equipment”). Due to the nature and tone of recent communications between the principals of Splash Kingdom and TI Solutions, Inc., differences now exist between the two companies which require the cessation of further business relations between them. The purpose of this letter is to (1) provide TI Solutions with notice of its default under an equipment purchase agreement, and (2) outline other controversies between the parties.

On or about May 2, 2017, TI Solutions was the successful bidder to provide equipment described in the bid which is attached as Exhibit “A”. Under the terms of the bid, TI Solutions was to provide and install all of the POS Equipment within two weeks after receiving payment from Splash Kingdom. On May 12, 2017, Splash Kingdom paid TI Solutions the sum of Forty Seven Thousand Five Hundred Sixty One and 60/100 (\$47,561.60) Dollars to purchase and install the POS Equipment. The promised delivery date of the POS Equipment is May 26, 2017 (The “Agreed Delivery Date”). As of this date, TI Solutions has not provided all of the POS Equipment.

1. **Breach of Contract.** TI Solutions has breached the terms of the purchaser agreement. Not only did TI Solutions fail to provide the equipment on the promised delivery date of May 26, 2017, it has also failed to perform its duties under the Purchase Agreement through the present date which is more than ninety (90) days after the Agreed Delivery Date. The equipment which TI Solutions failed to deliver is described in Exhibit “A” which is attached hereto (the “Undelivered Equipment”). As a result of your ongoing breach, Splash Kingdom declares the contract to be in default and demands the immediate payment of the sum of \$19,829.02. Due to your delay in the delivery of the POS Equipment and your default, Splash Kingdom will not accept the delivery of the Undelivered POS Equipment. Do not attempt to deliver any portion of the Undelivered POS Equipment.

Jeffrey D. Palmer II

August 28, 2017

Page 2

2. **Fraud and Misuse of Funds.** Since May 26, 2017, you have provided Splash Kingdom with a litany of excuses why the POS Equipment could not be delivered. In order to cover up the real reason for your failure to deliver the POS Equipment, TI Solutions provided used and antiquated parts and equipment as "Stop-Gap Measures." These Stop-Gap Measures amounted to an inadequate and inefficient ruse to cover up the real reason for your inability to deliver the POS Equipment. The reason that the equipment could not be delivered in a timely manner was that portions of the equipment were never ordered. The funds paid to TI Solutions by Splash Kingdom to purchase the POS Equipment were, in fact, used by TI Solutions for other purposes. The misuse of the purchase funds amounted to a fraud and theft of funds and a violation of the Texas Deceptive Trade Practices Act.

3. **Extortion and Threats.** During recent email and telephone conversations between you and the officers and employees of Splash Kingdom, you have alluded to the possibility of damage being inflicted on the operations of Splash Kingdom as a result of your sole control of network and server passwords. You have also made statements suggesting that Mr. Johnny Blevins was complicit in a scheme to start the fire which destroyed the Splash Kingdom facility in Canton, Texas, on or about April 27, 2017. You also suggested that damage could be inflicted on Mr. Blevins, the employees and the company due to your knowledge regarding an individual's access to any facility and your ability to cause damage to persons associated with Splash Kingdom as a result of that knowledge. Your threats are deemed to be an effort to obtain financial concessions from Splash Kingdom or to distract attention from TI Solution's misappropriation of the purchase funds. Any publication of false statements about any principal or employee of Splash Kingdom will be met with an aggressive response and immediate legal action.

4. **Return of Splash Kingdom Equipment in Possession of TI Solutions.** The purchase of the POS Equipment was a direct result of a fire which occurred at the Splash Kingdom Park in Canton on May 27, 2017. At the request of Splash Kingdom, certain computer equipment and other components (the "Damaged Equipment") was taken to your office for the purpose of analysis and to explore the possibility of extracting data from the equipment. The Damaged Equipment must be made available for pickup by representatives of Splash Kingdom.

5. **Return of TI Solutions Equipment.** Used computer equipment belonging to TI Solutions was installed at Splash Kingdom-Canton as a result of the failure of TI Solutions to purchase the POS Equipment in a timely manner. That equipment is located at Splash Kingdom-Canton. This computer equipment belong to TI Solutions will be removed from operations at Splash Kingdom-Canton and made available to TI Solutions for pickup at the time that the breach of purchase contract is cured and the final resolution of other matters described in this letter.

6. **Termination of Consulting Services.** Please take notice that all consulting services provided by TI Solutions to Splash Kingdom are terminated immediately. Please provide all passwords in your possession to our consultants: Inline Integration Services, LLC.

7. **Accounting for Invoices of TI Solutions for Ongoing Consulting Services.** TI Solutions and Splash Kingdom have operated under a month to month consulting agreement (the "Monthly Consulting Services"). On Thursday evening August 24, 2017, you delivered invoices for the

Jeffrey D. Palmer II

August 28, 2017

Page 3

months of May, June, July and August, 2017, and ask to be paid on Friday morning, August 25, 2017. You subsequently confirmed that the May invoice had been paid in full. The amount of the remaining invoices are not in dispute and will be paid as a part of the final resolution of the disputes described in this letter.

8. Undocumented Consulting Services Related to Replacement of POS Equipment. During recent telephone calls and text messages, you or your representatives of TI Solutions have suggested that there are monies owed to TI Solutions for services rendered in addition to the services contemplated by the Monthly Consulting Services. You have provided no detail of those services or an invoice for those services. Although a meritorious claim for services rendered will be considered for payment as a part of final settlement, no claim will be considered for services which resulted from your company's failure to order the POS Equipment in a timely manner and the misuse of funds paid to TI Solutions, in trust, to purchase the POS Equipment.

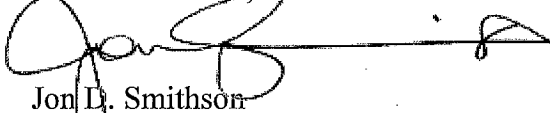
9. Demand for Payment of Damages Resulting from Your Default and Demand to Terminate Further Illegal Activities.

- a. Demand is hereby made for the payment of \$19,829.02, being the amount of money paid to TI Solutions for the Undelivered Equipment.
- b. Do not attempt to tender the Undelivered Equipment; any attempt to deliver any portion of the Undelivered Equipment will be rejected.
- c. Do not enter upon the property of Splash Kingdom – Canton or any of any other facility operated by Splash Kingdom in Shreveport, Nacogdoches, Greenville, or Weatherford, Texas, without the prior, written consent of Johnny I. Blevins. Any unauthorized entry will be deemed a trespass.
- d. Further attempts to threaten Splash Kingdom or its officers, members, or employees with (i) the misuse or withholding of passwords or other information or (ii) the suggestion of wrongdoing or illegal acts by representatives of Splash Kingdom will not be tolerated.

It is our hope that a resolution of all disputes between the parties and that an accounting of amounts owed by and between the parties can be achieved by mutual consent. Splash Kingdom will work with you toward that end. If you have retained counsel to assist you in this matter, please let me know, and further communications will be directed to your counsel. All further communications should be directed to my office and not to my client or its employees.

Yours truly,

Jon D. Smithson, PC



Jon D. Smithson
For the Firm

JDS/js

Jeffrey D. Palmer II

August 28, 2017

Page 4

Enclosure(s)

cc: Hand Delivery – 102 N. College Ave., Suite 102, Tyler, Texas 75702
Jeff Palmer (via email - jeff@tisolutionstx.com)

Sp17-030.1001 (Letter to Jeff Palmer).doc

**TI Solutions LLC**

102 N. College
Suite 102
Tyler, Texas 75701

Proposal**Proposal Date:** 5/2/2017**Proposal #:** 111**Project:****Bill To:**

Splash Kingdom Waterparks
18814 Interstate 20
Canton, TX 75103

Description	Est. Hours/Qty.	Rate	Total
Dell POS with i5 processor, 500 GB Hard Drive, + 4GB Ram. Elo Touch Systems 1517L-15-inch Multifunction Desktop Touch monitor. Including card swipe, and webcam. Epson T88 receipt printer	11	1,649.99	18,149.89T
Boca Lemur S Ticket printers	4	1,100.00	4,400.00T
Hand Held Bar Code Scanners	16	179.99	2,879.84T
Dell Server with Intel Xeon Processors x 2, Raid 10, 1TB SSDs, redundant power supplies, 16GB Ram.	1	5,149.99	5,149.99T
Motorola MC40 Scanners	2	1,289.99	2,579.98T
MOFI4500-4GXeLTE-SIM4 4G/LTE	2	334.89	669.78T
VeriFone VX 805 M280	25	168.99	4,224.75T
Cash Drawer	5	99.99	499.95T
Epson T88 receipt printer	14	286.99	4,017.86T
Ubiquiti outdoor 5g	11	124.07	1,364.77T
Sales Tax		8.25%	3,624.79
Total			\$47,561.60

Phone:

9037803160

E-mail

admin@tisolutionstx.com

Web Site

www.TISolutionsTX.com

EXHIBIT B

Outstanding Equipment from Proposal # 111 with TI

Solutions LLC

Item	QTY	Price	Total
Dell POS*	6	\$ 1,649.99	\$ 9,899.94
Boca Printers	4	\$ 1,100.00	\$ 4,400.00
Epson Receipt Printer	14	\$ 286.99	\$ 4,017.86
			<u>\$ 18,317.80</u>
		Sales Tax:	<u>\$ 1,511.22</u>
		Total:	<u><u>\$ 19,829.02</u></u>


* with i5 processor, 500 GB Hard Drive, 4 GB Ram. Elo Touch Systems 1517L-15-inch Multifunction Desktop Touch Monitor. Including Card Swipe and Webcam. Epson T88 Receipt Printer.

EXHIBIT 3

Affidavit of Jeff Palmer

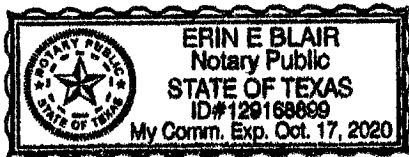
Before me, the undersigned authority, on this day personally appeared the undersigned affiant, Jeff Palmer, who being by me duly sworn, upon oath stated:

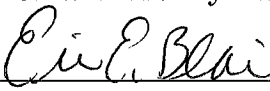
1. "I am Jeff Palmer. I am over 18 years of age, of sound mind, and legally capable of making this affidavit.
2. "I am the member and owner of TI Solutions, LLC.
3. "The facts asserted in this petition are true and correct and based upon my personal knowledge. The invoices attached as exhibits are true and correct copies of the originals. The outstanding balances listed in the petition reflect all payments, credits and offsets.
4. "This statement completes my affidavit.



JEFF PALMER

SUBSCRIBED AND SWORN TO BEFORE ME by the said Affiant on September 27, 2017, to certify which witness my hand and seal of office.

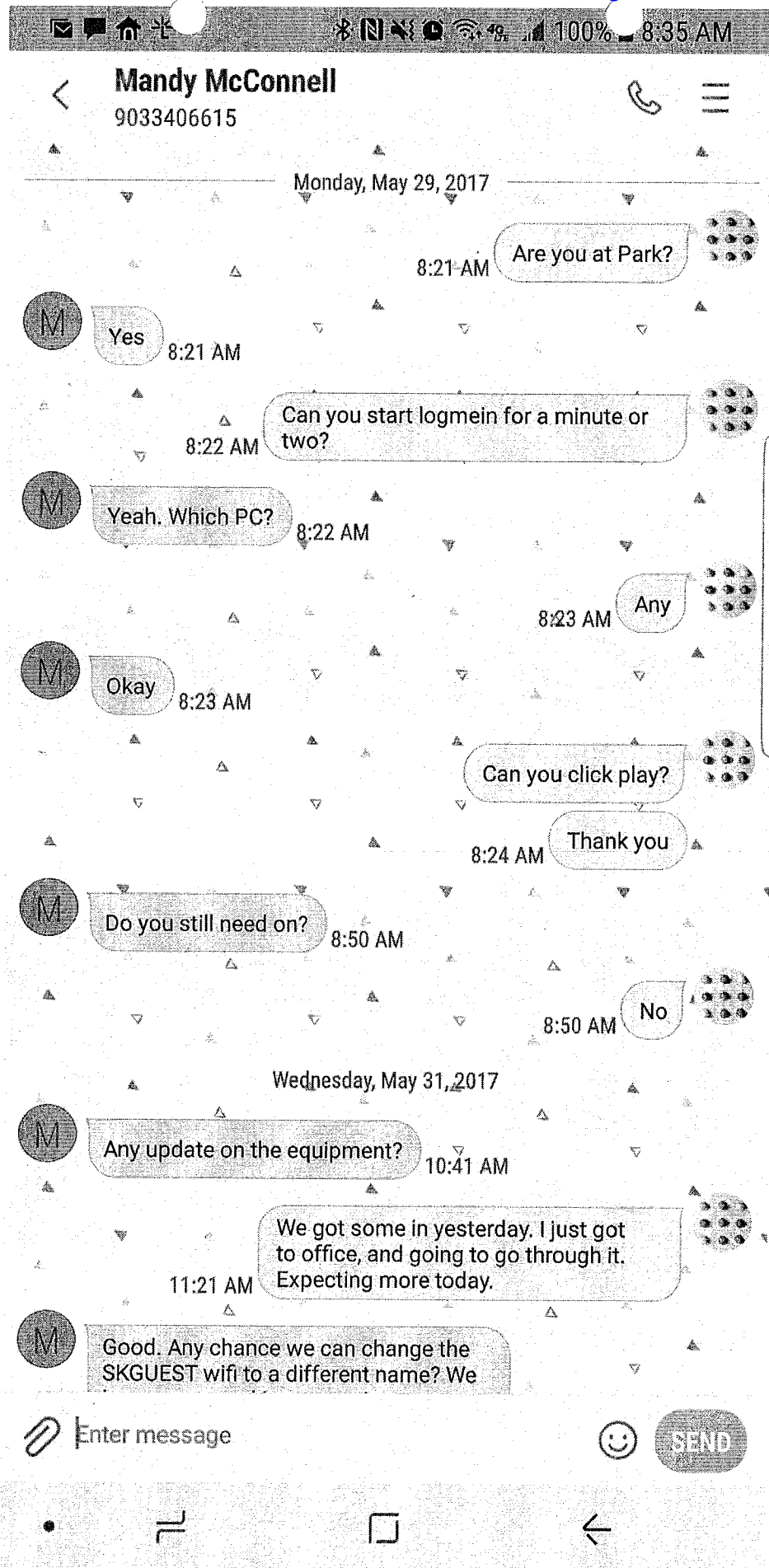




Notary Public, State of Texas
My Commission Expires: 10-17-20

EXHIBIT 4

TEXTS
MANDY McCONNELL (SPLASH
KINGDOM) AND JEFF PALMER



Ringtone



Monday, May 29, 2017

8:21 AM

Are you at Park?

M

Yes

8:21 AM

8:22 AM

Can you start logmein for a minute or two?

M

Yeah. Which PC?

8:22 AM

8:23 AM

Any

M

Okay

8:23 AM

Can you click play?

8:24 AM

Thank you

M

Do you still need on?

8:50 AM

8:50 AM

No

Wednesday, May 31, 2017

M

Any update on the equipment?

10:41 AM

11:21 AM

We got some in yesterday. I just got to office, and going to go through it. Expecting more today.

M

Good. Any chance we can change the SKGUEST wifi to a different name? We

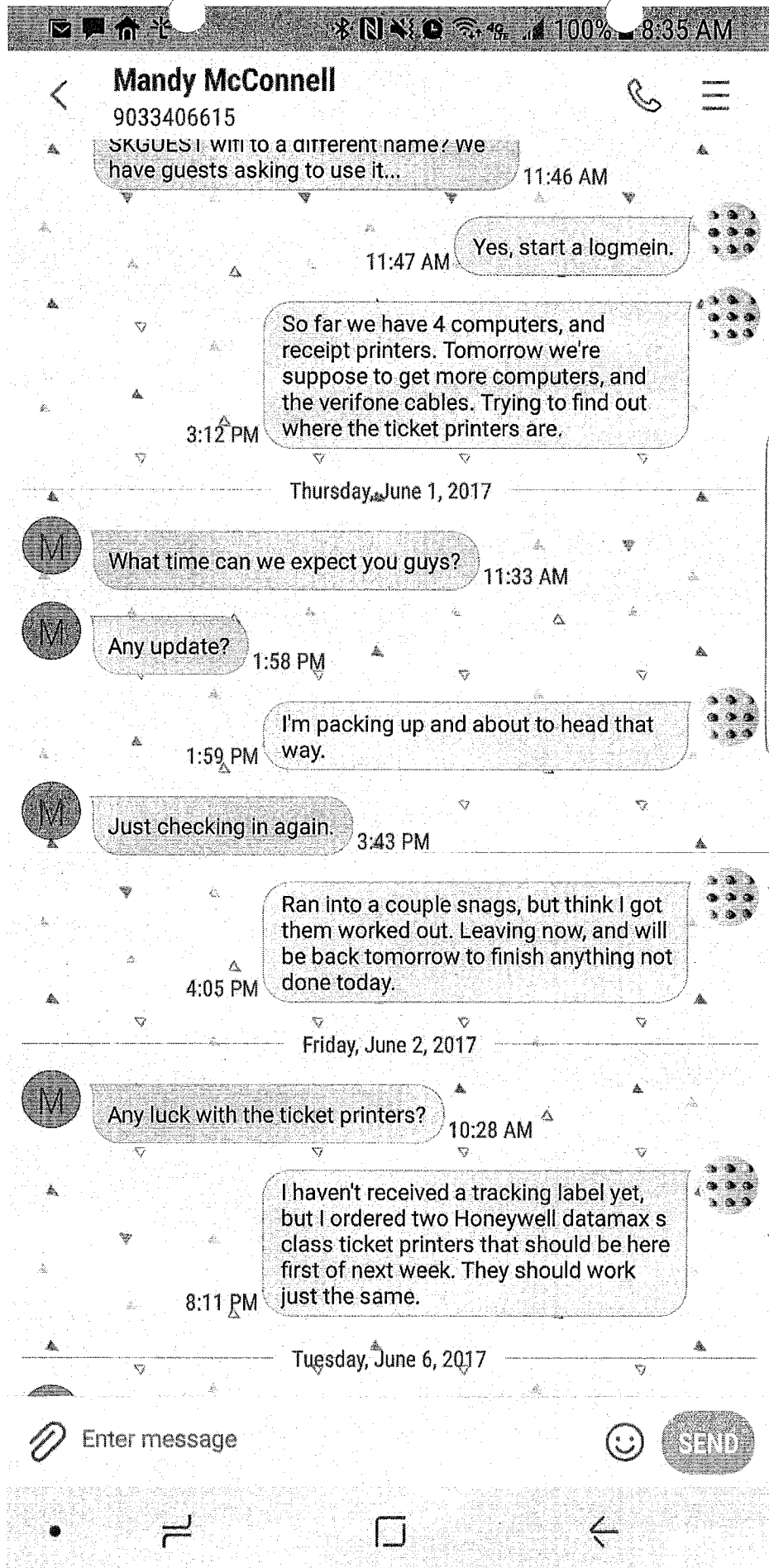


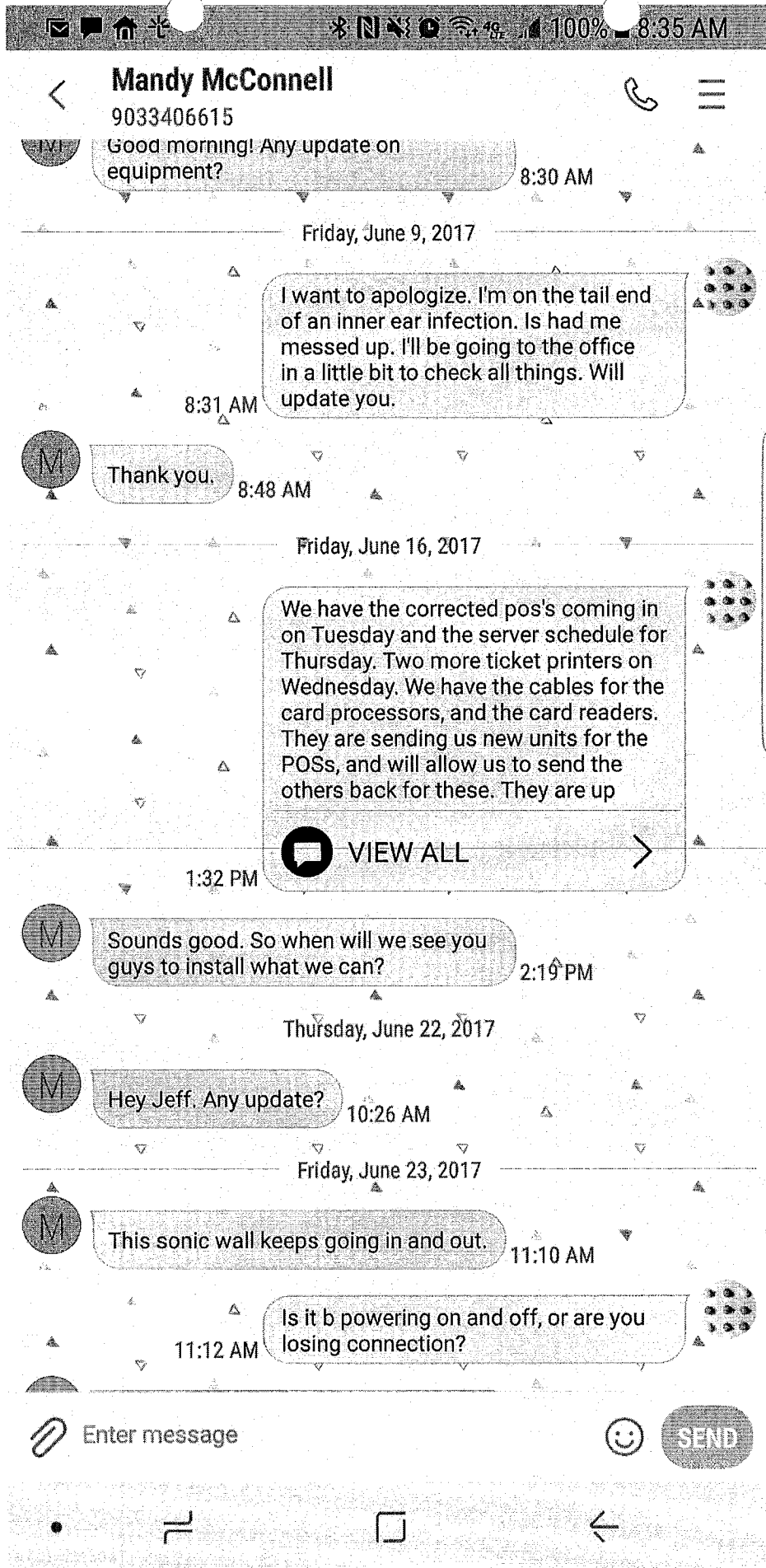
Enter message

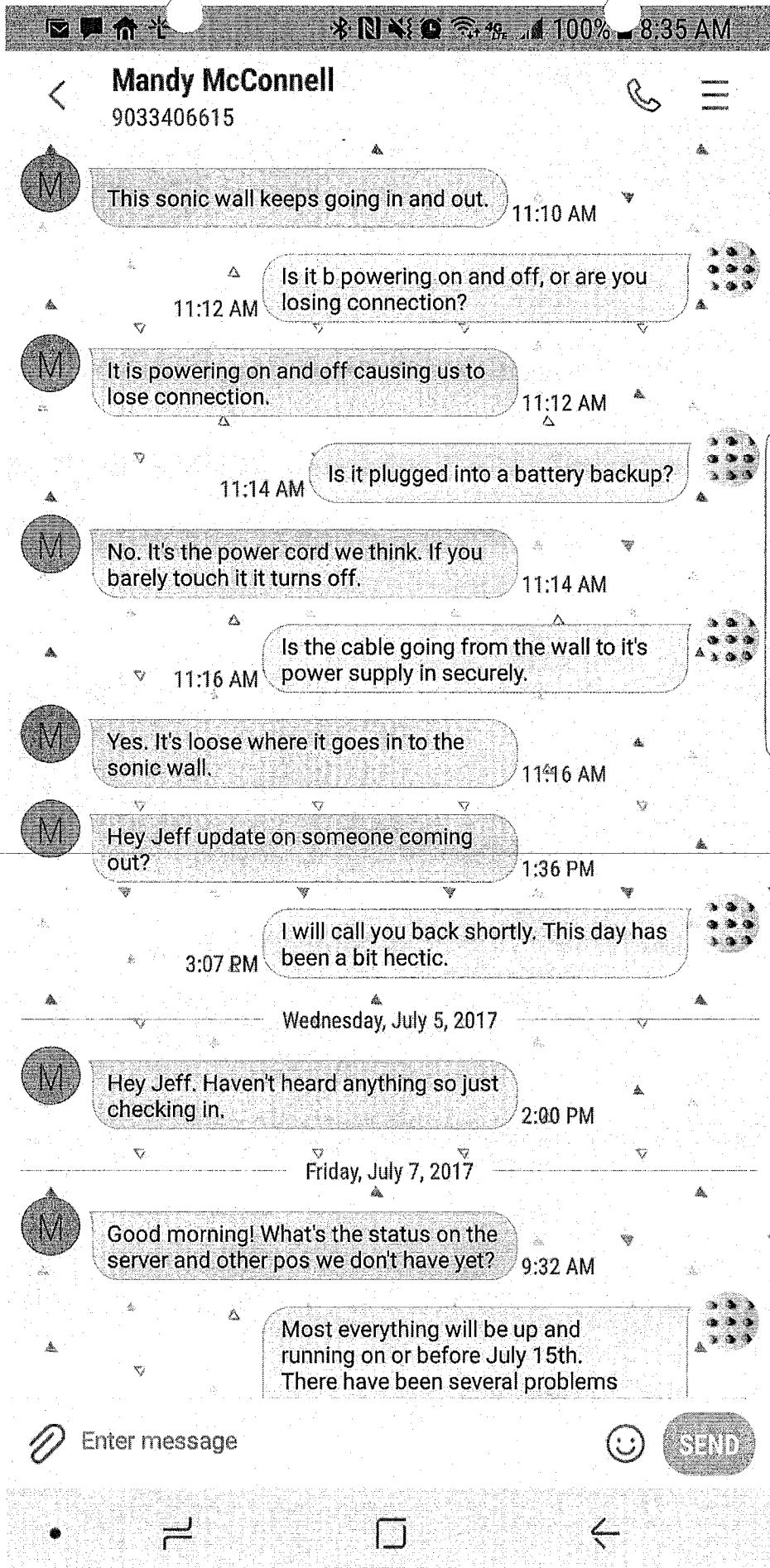


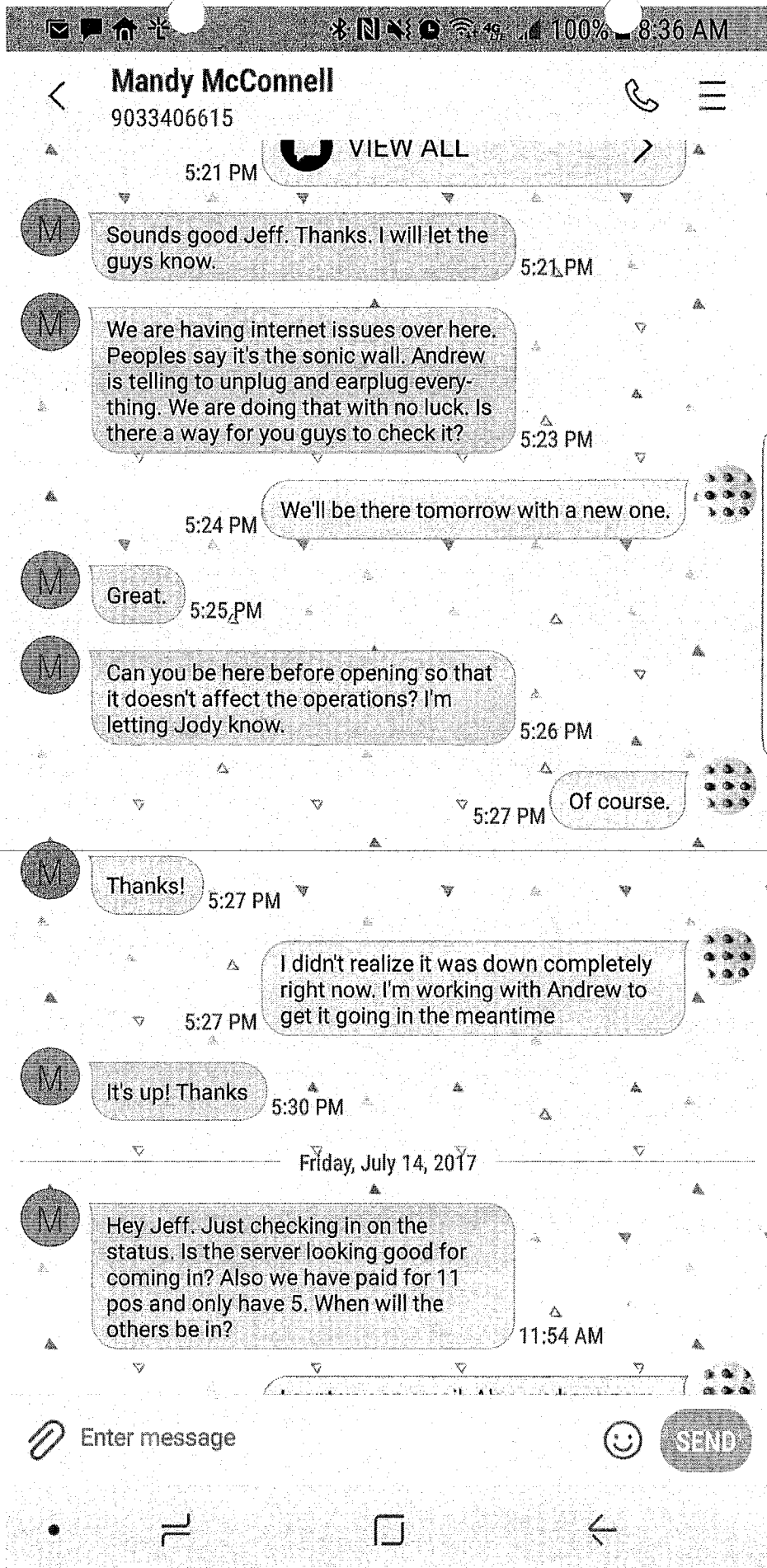
SEND

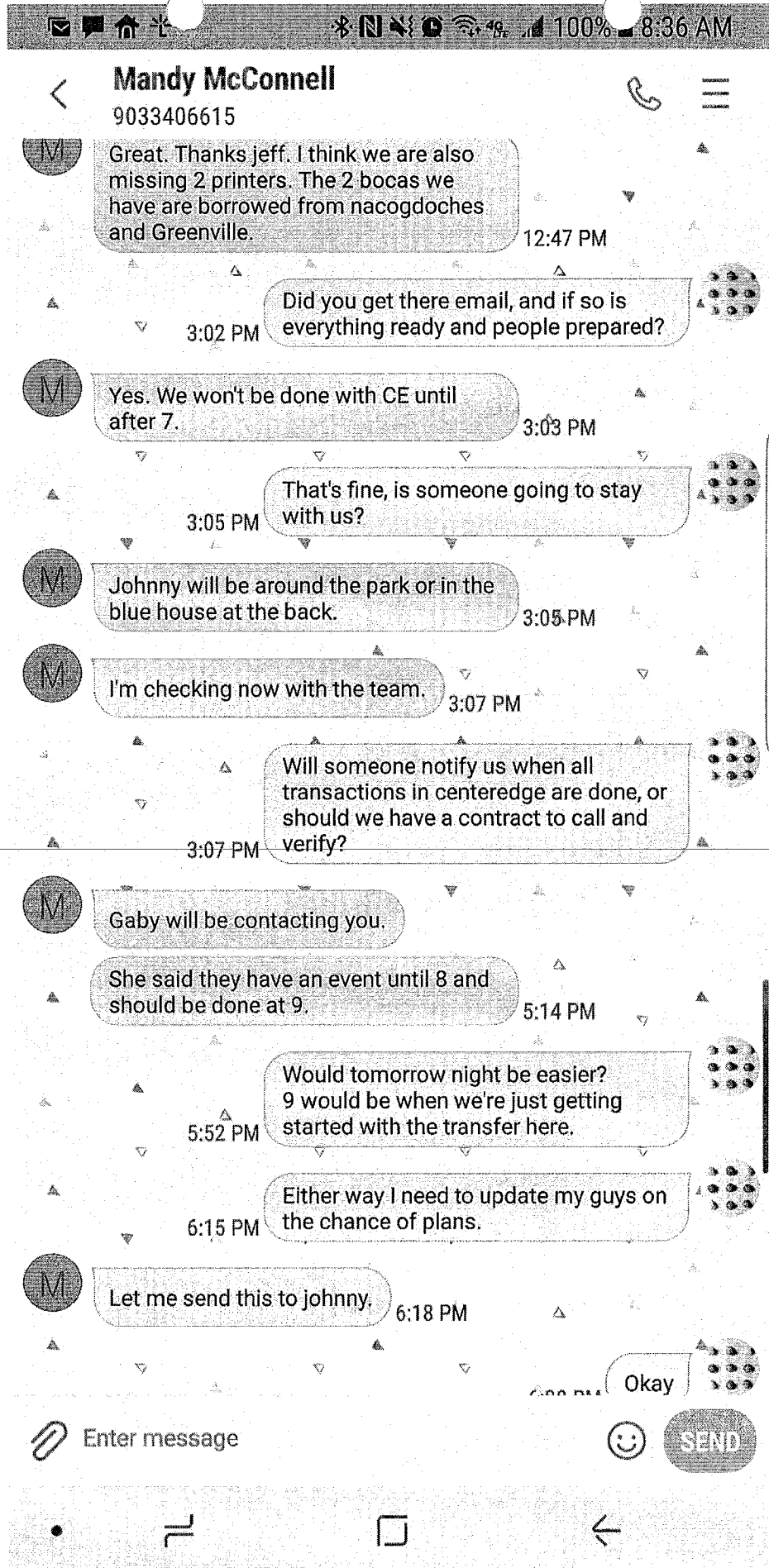


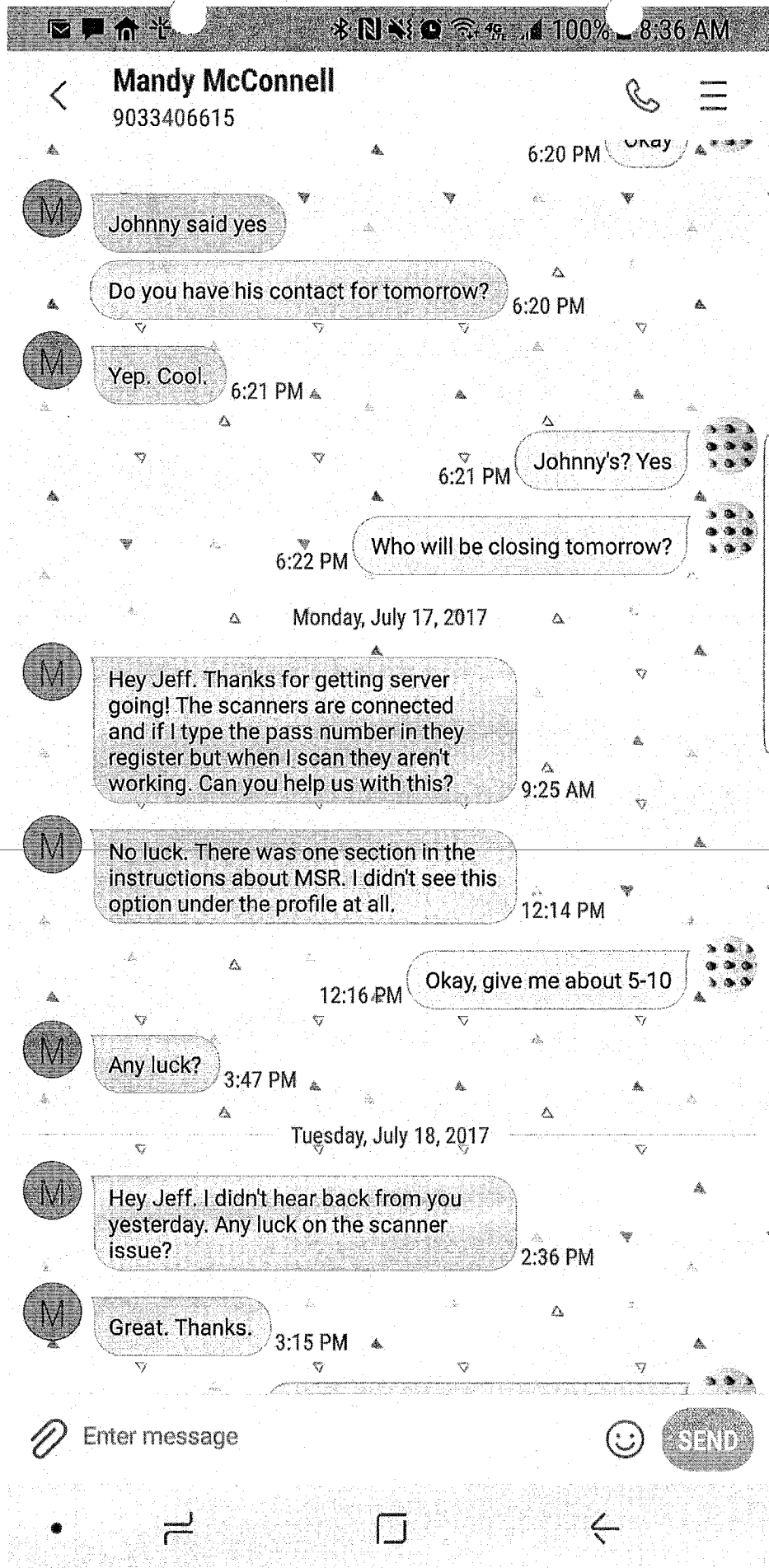


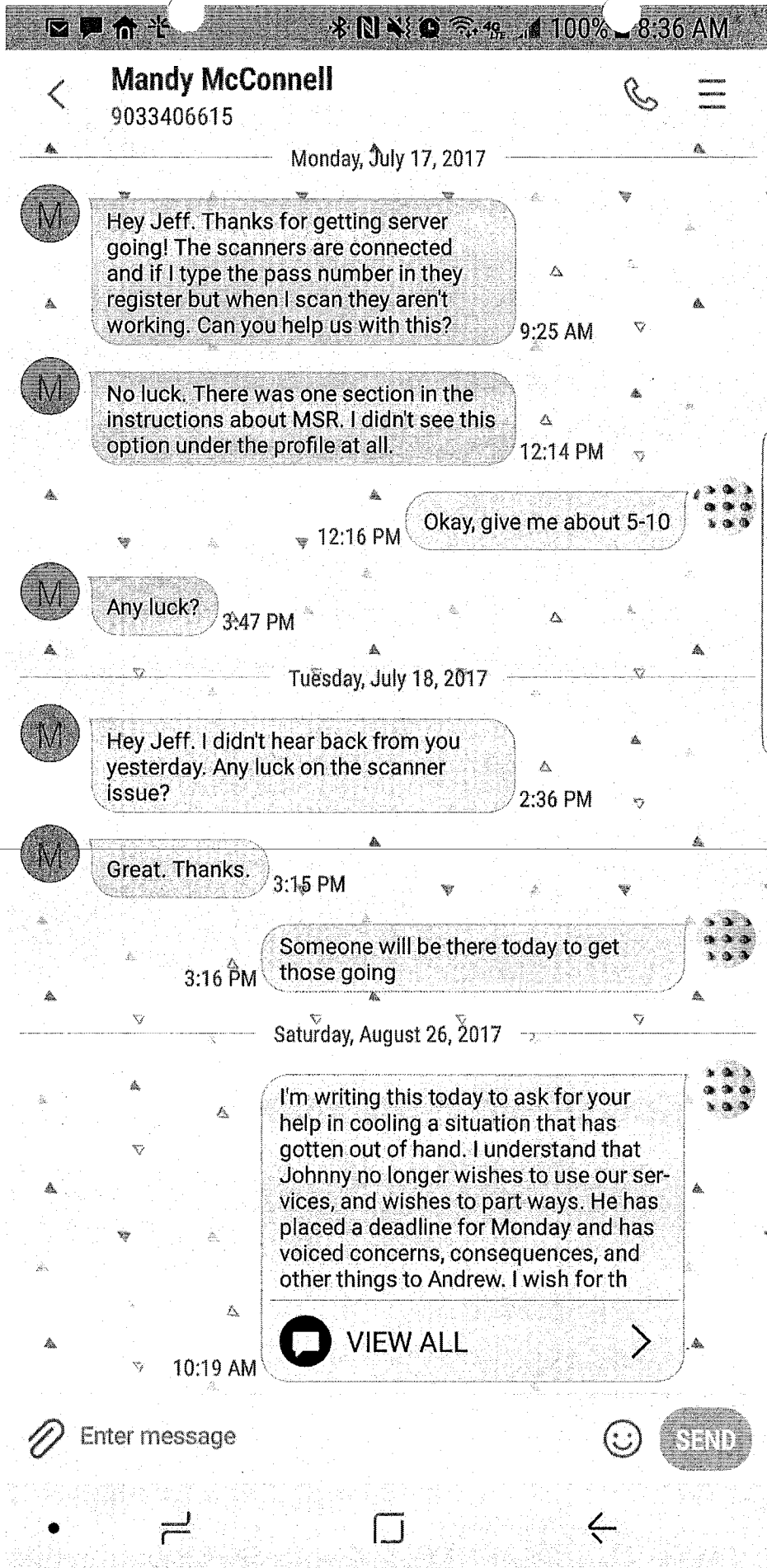




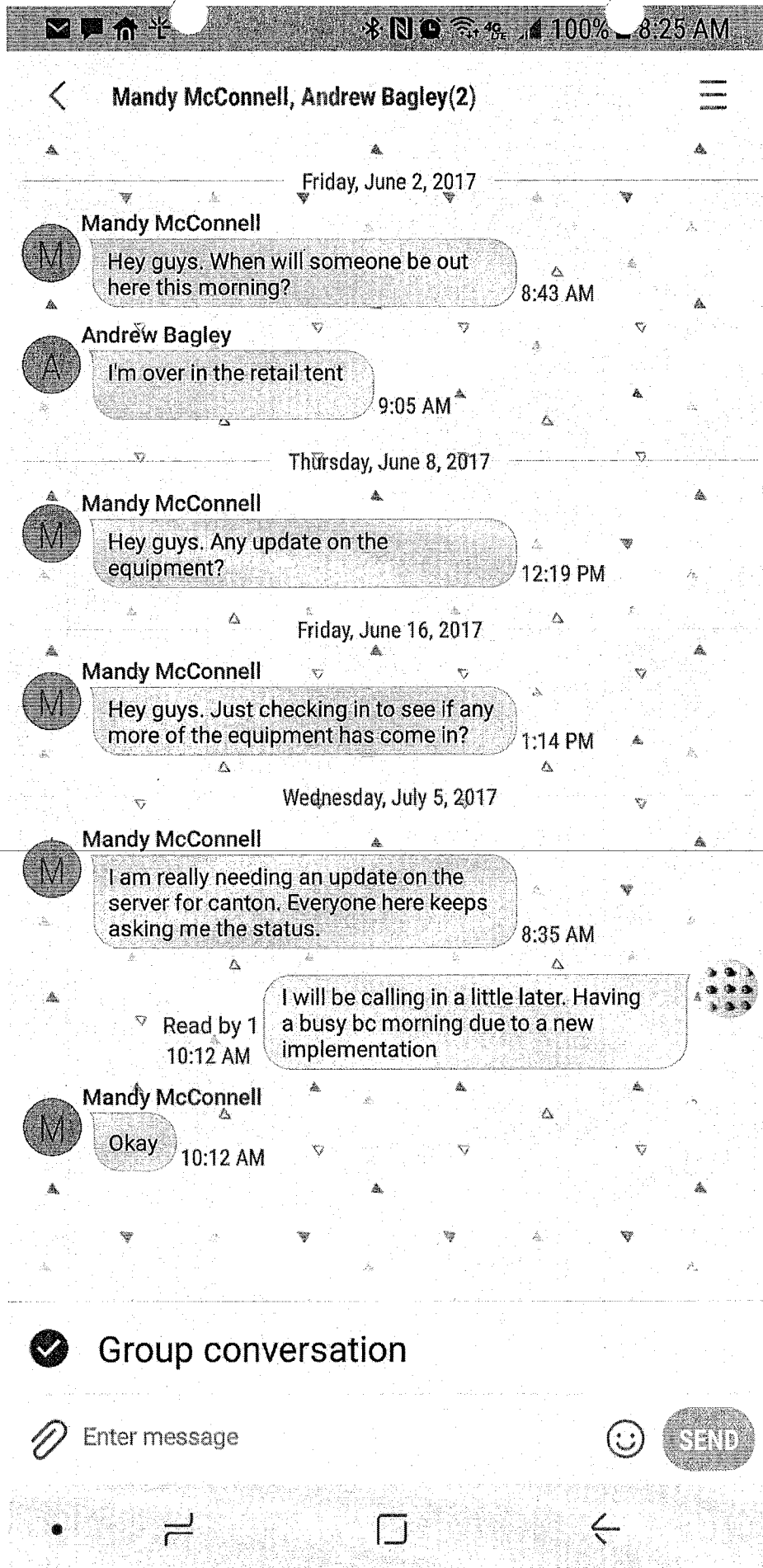




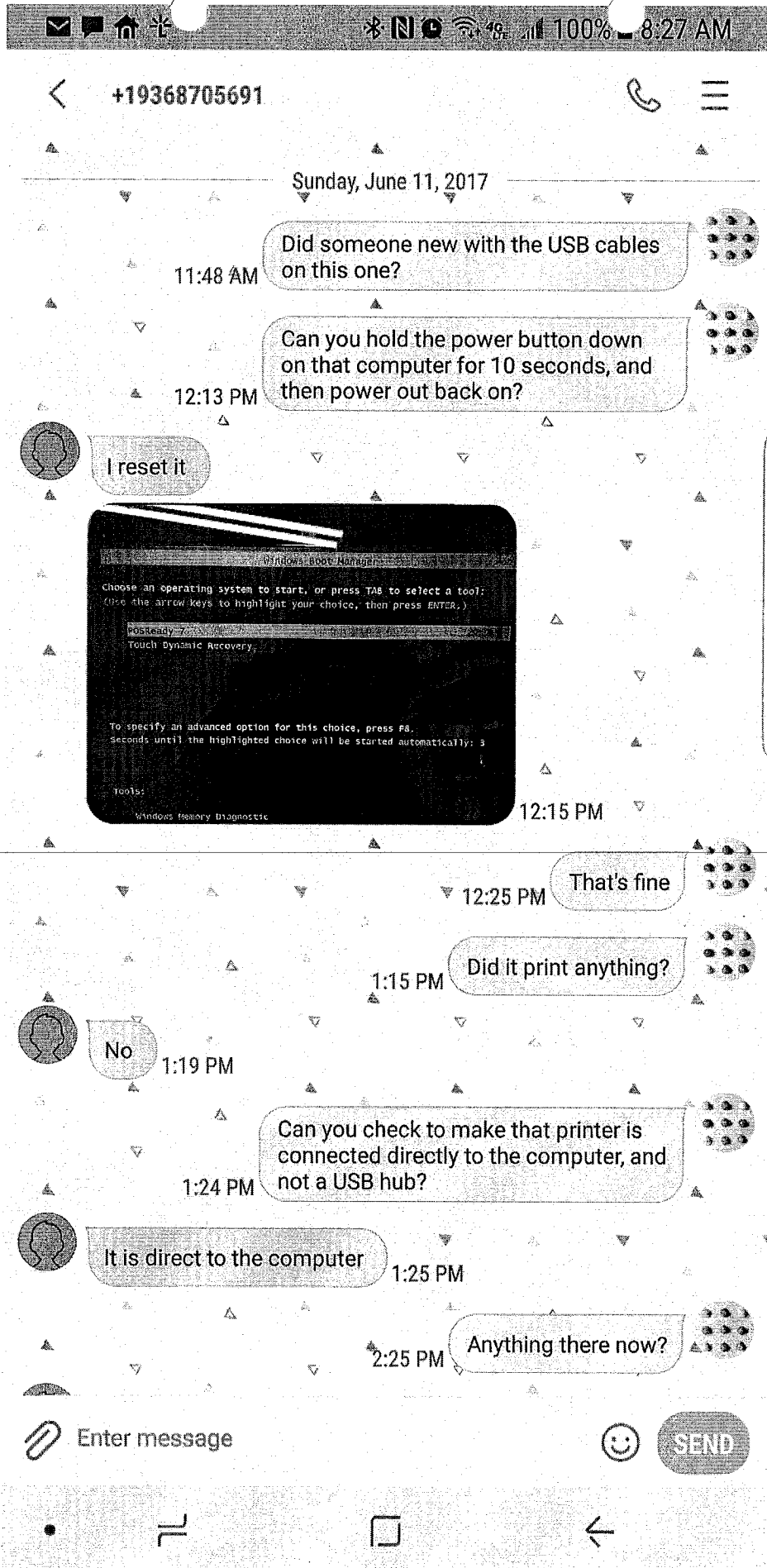


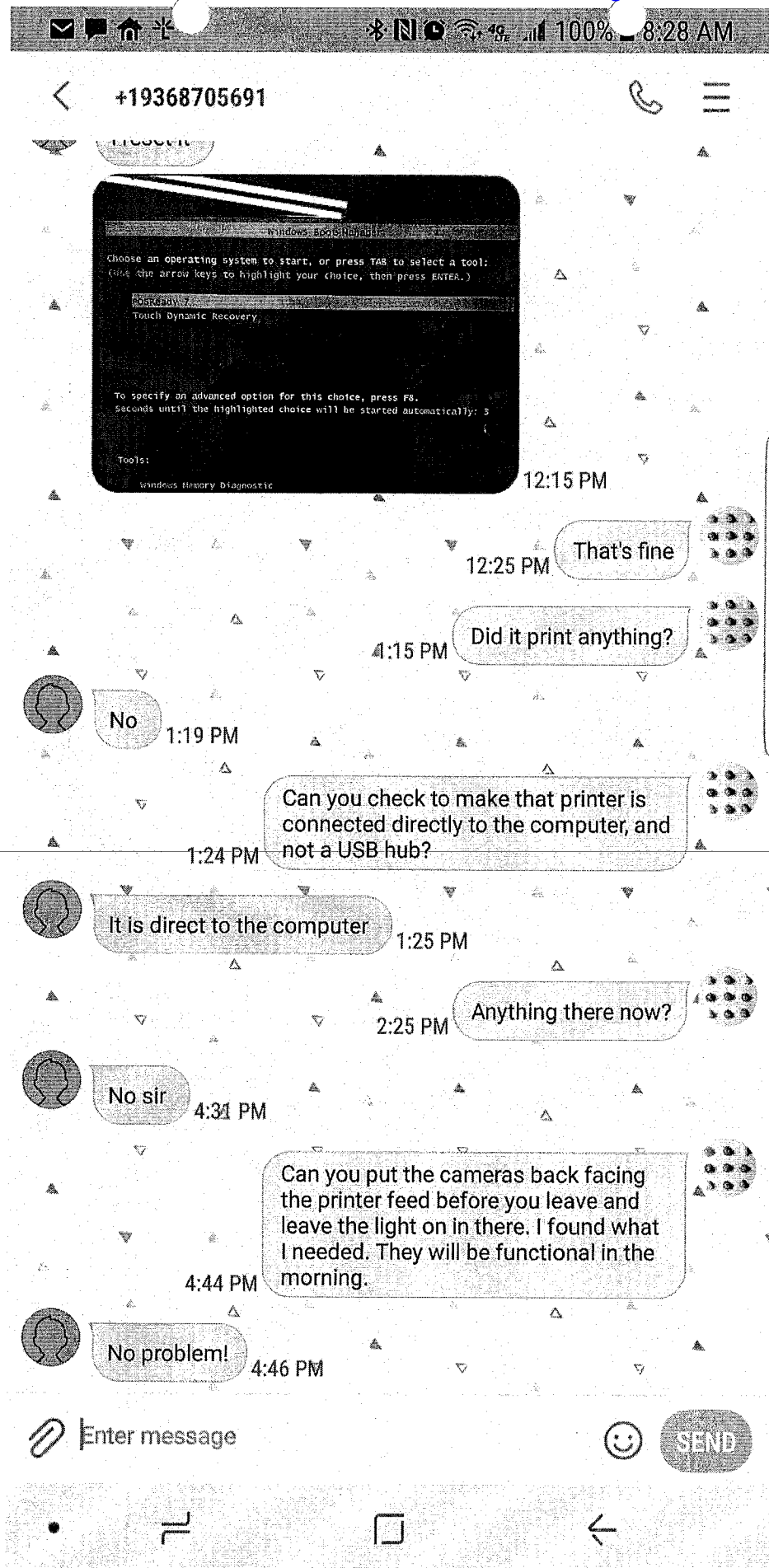


TEXTS
MANDY McCONNELL, ANDREW
BAGLEY AND JEFF PALMER

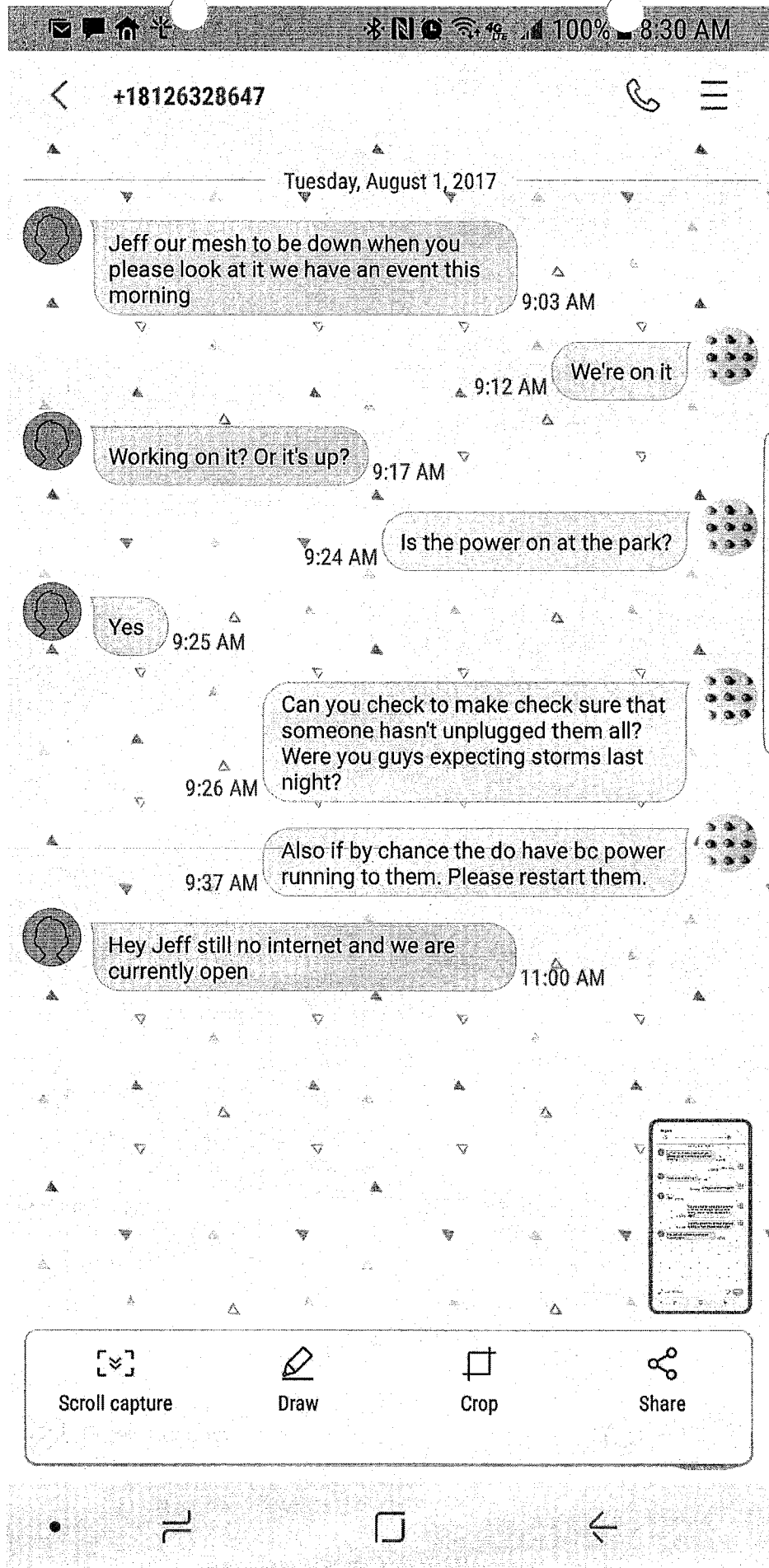


**TEXTS
PHONE 936-870-5691
AND JEFF PALMER**





**TEXTS
PHONE 812-632-8647
AND JEFF PALMER**



Ringtone



Tuesday, August 1, 2017



Jeff our mesh to be down when you please look at it we have an event this morning

9:03 AM

We're on it

9:12 AM



Working on it? Or it's up?

9:17 AM

9:24 AM

Is the power on at the park?



Yes

9:25 AM

9:26 AM

Can you check to make check sure that someone hasn't unplugged them all? Were you guys expecting storms last night?

9:37 AM

Also if by chance the do have bc power running to them. Please restart them.



Hey Jeff still no internet and we are currently open

11:00 AM



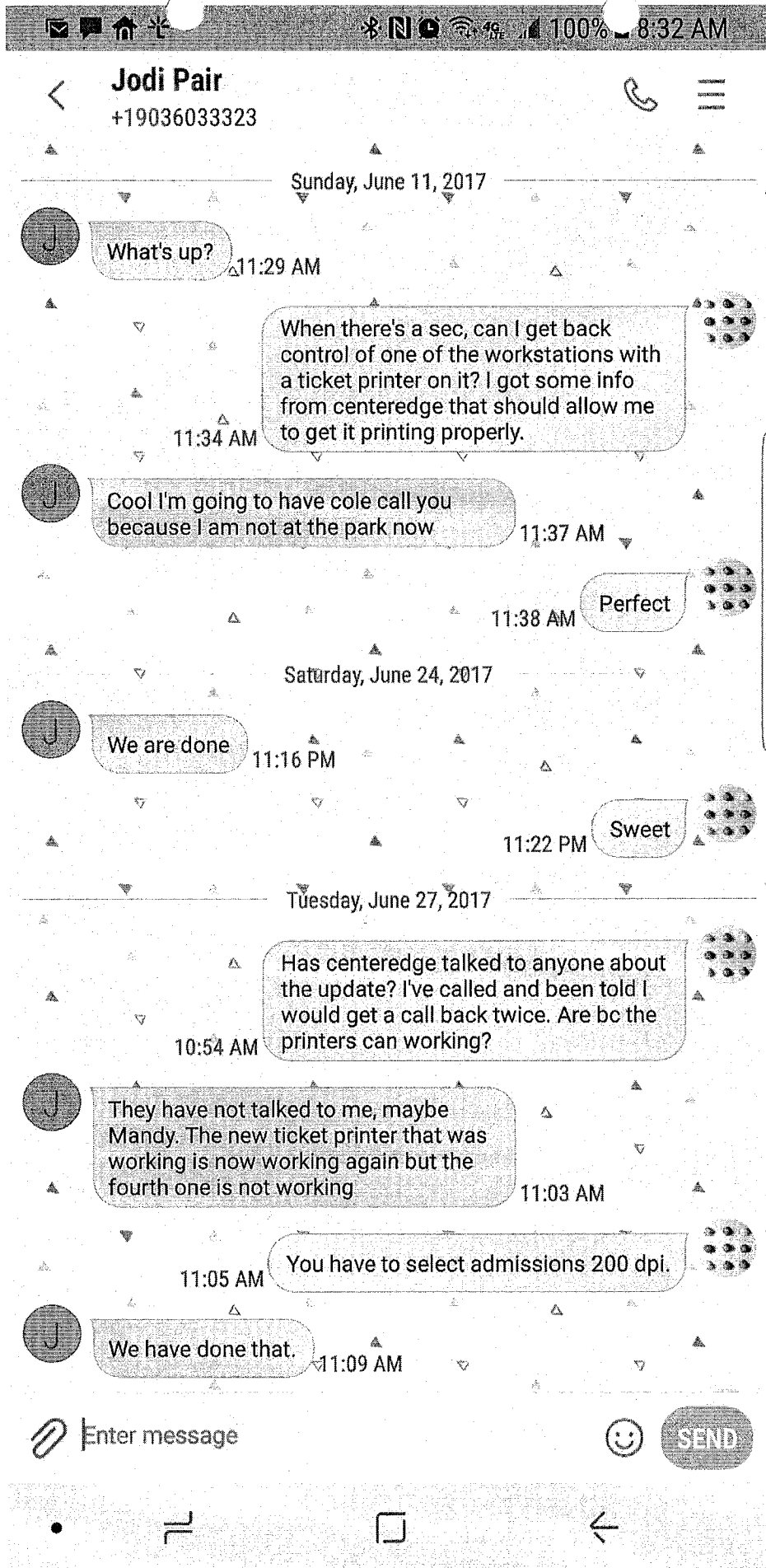
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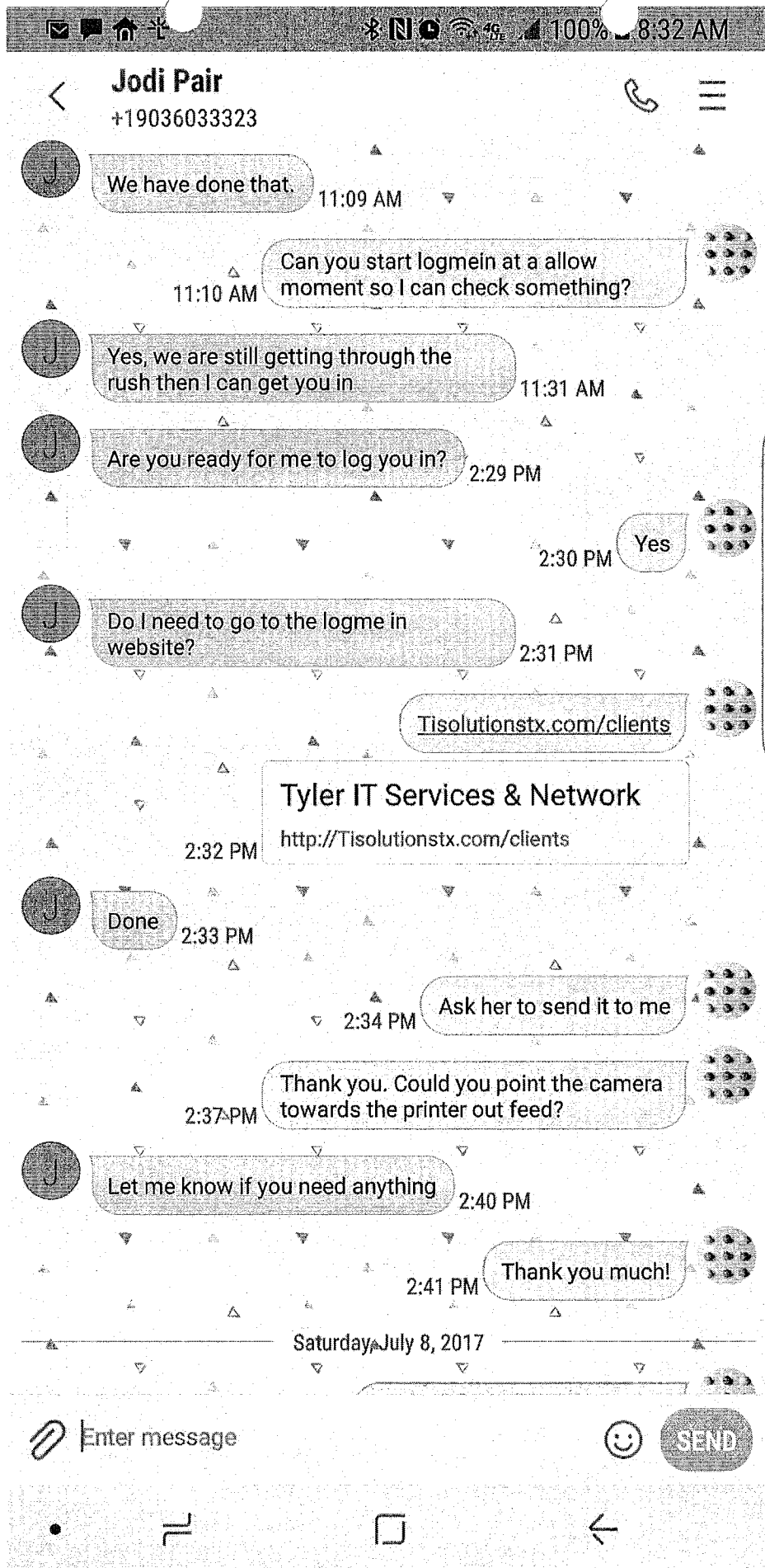


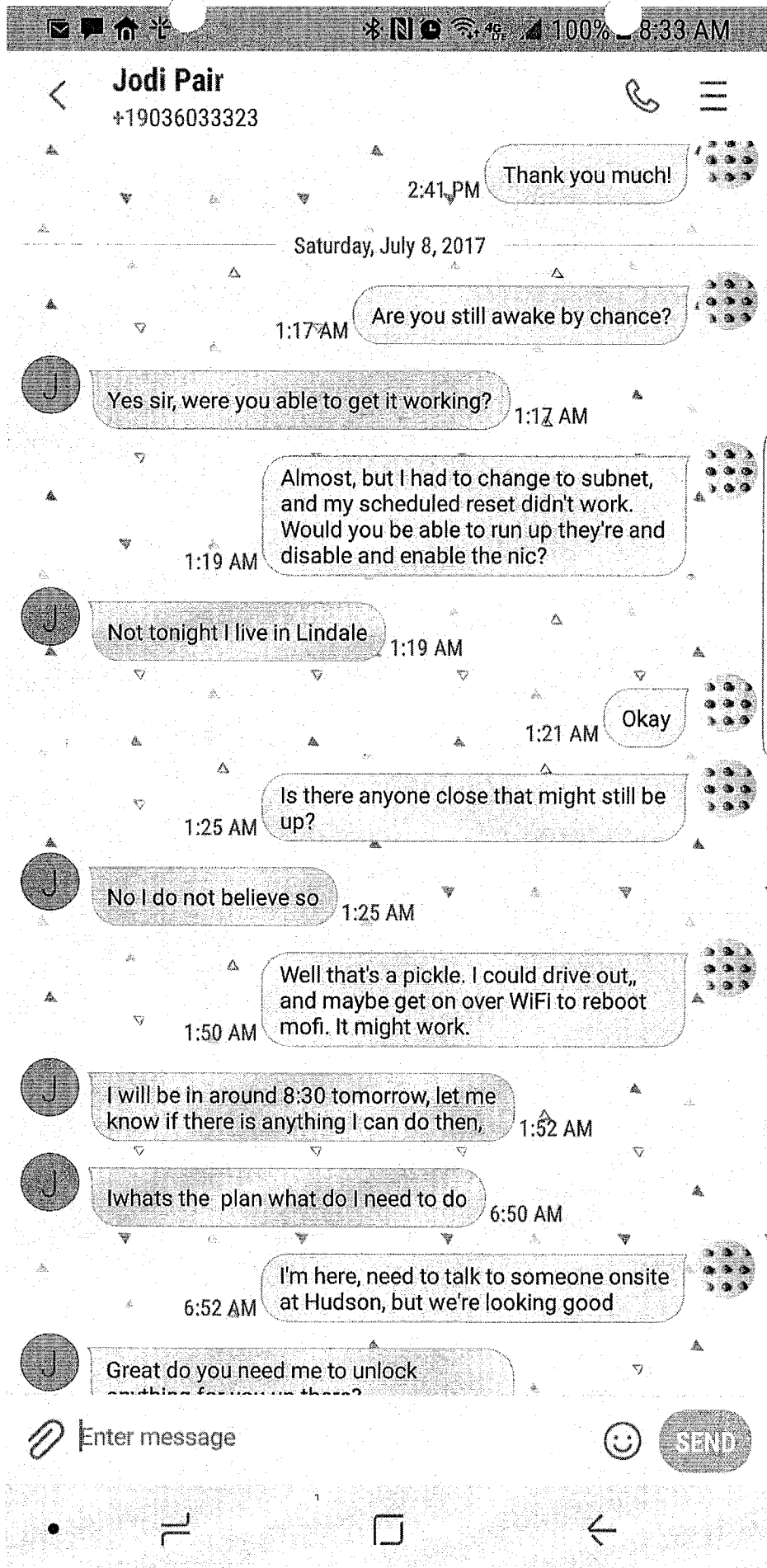
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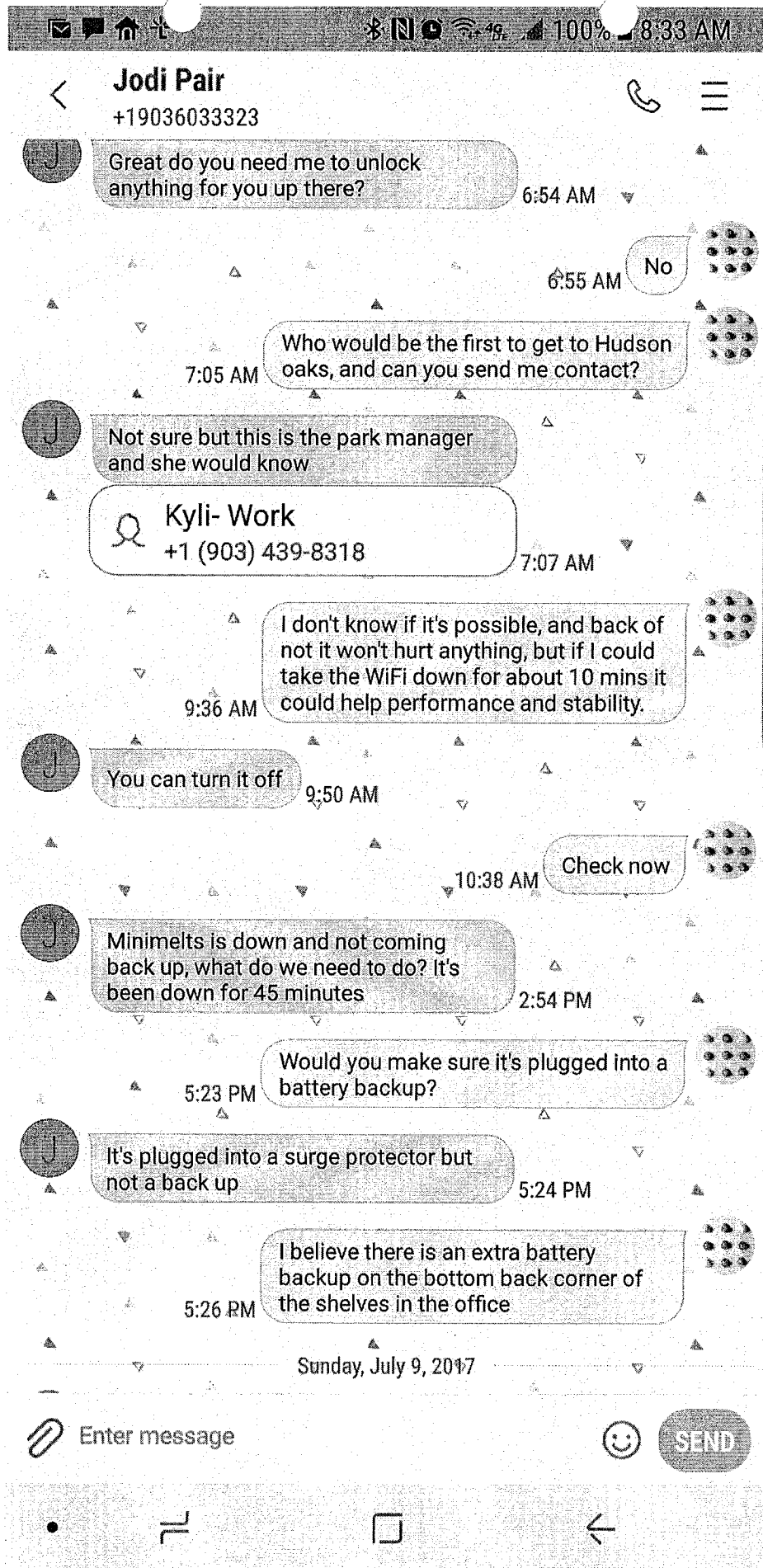


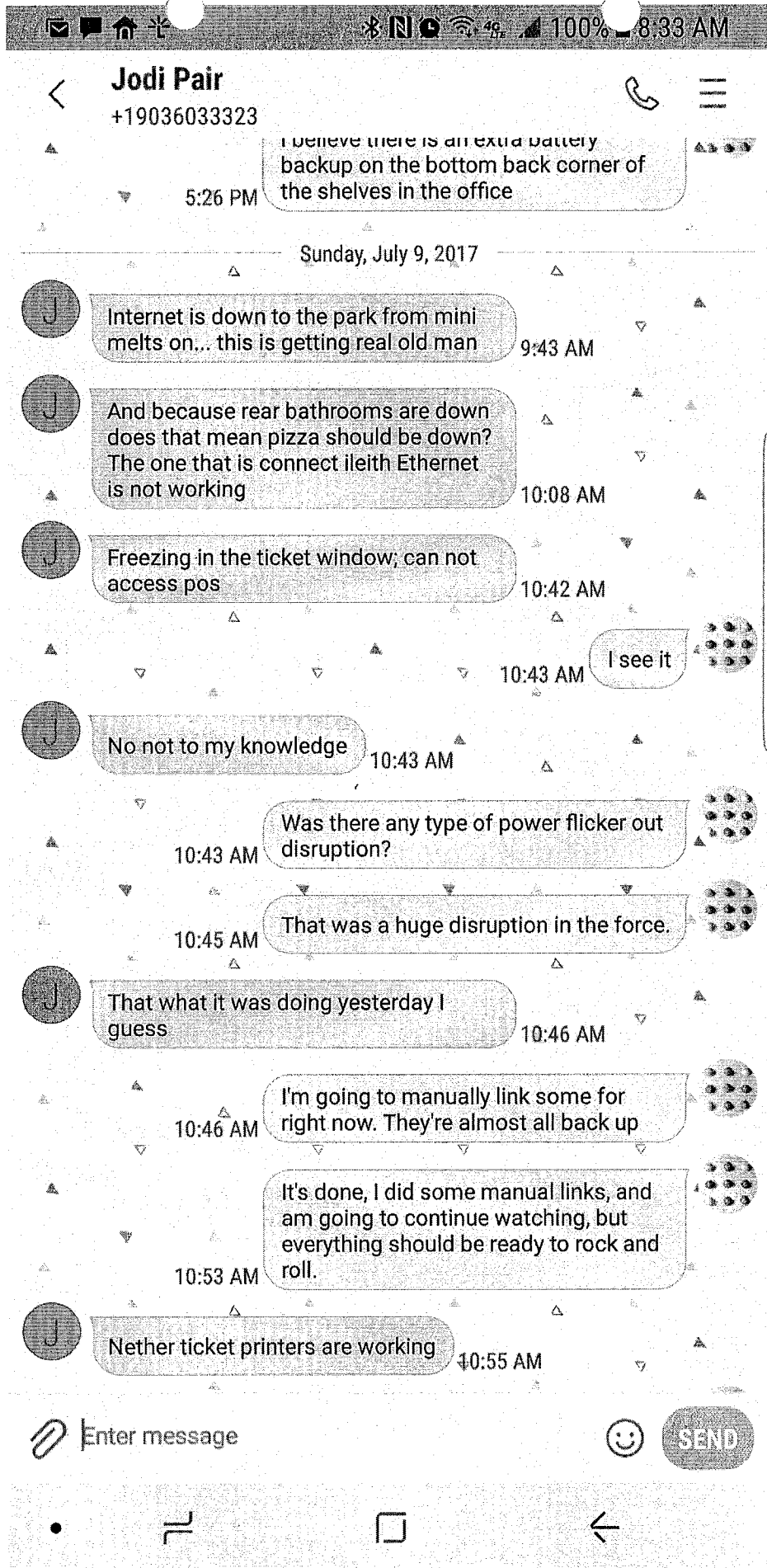
TEXTS
JODI PAIR AND JEFF PALMER

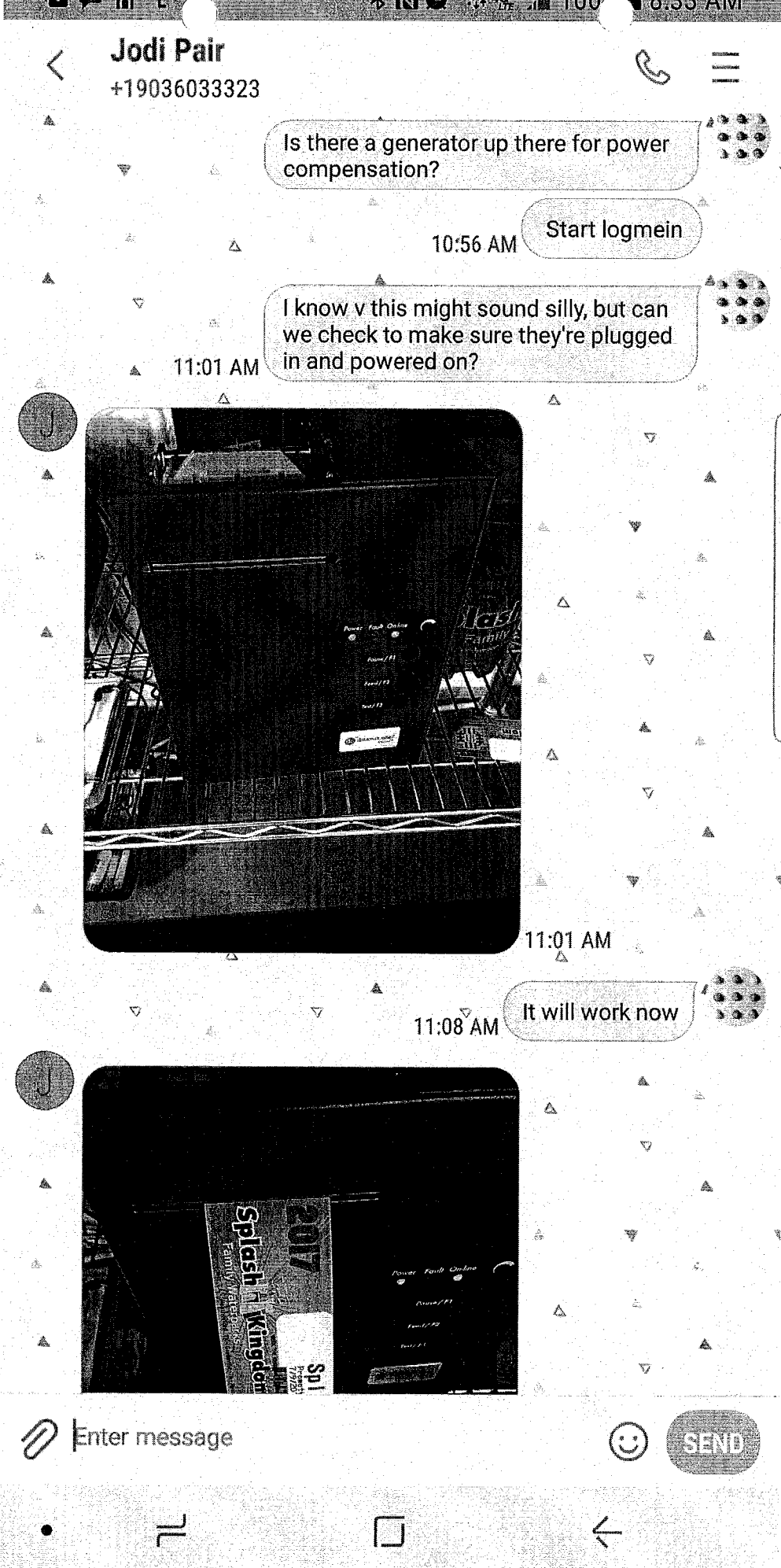


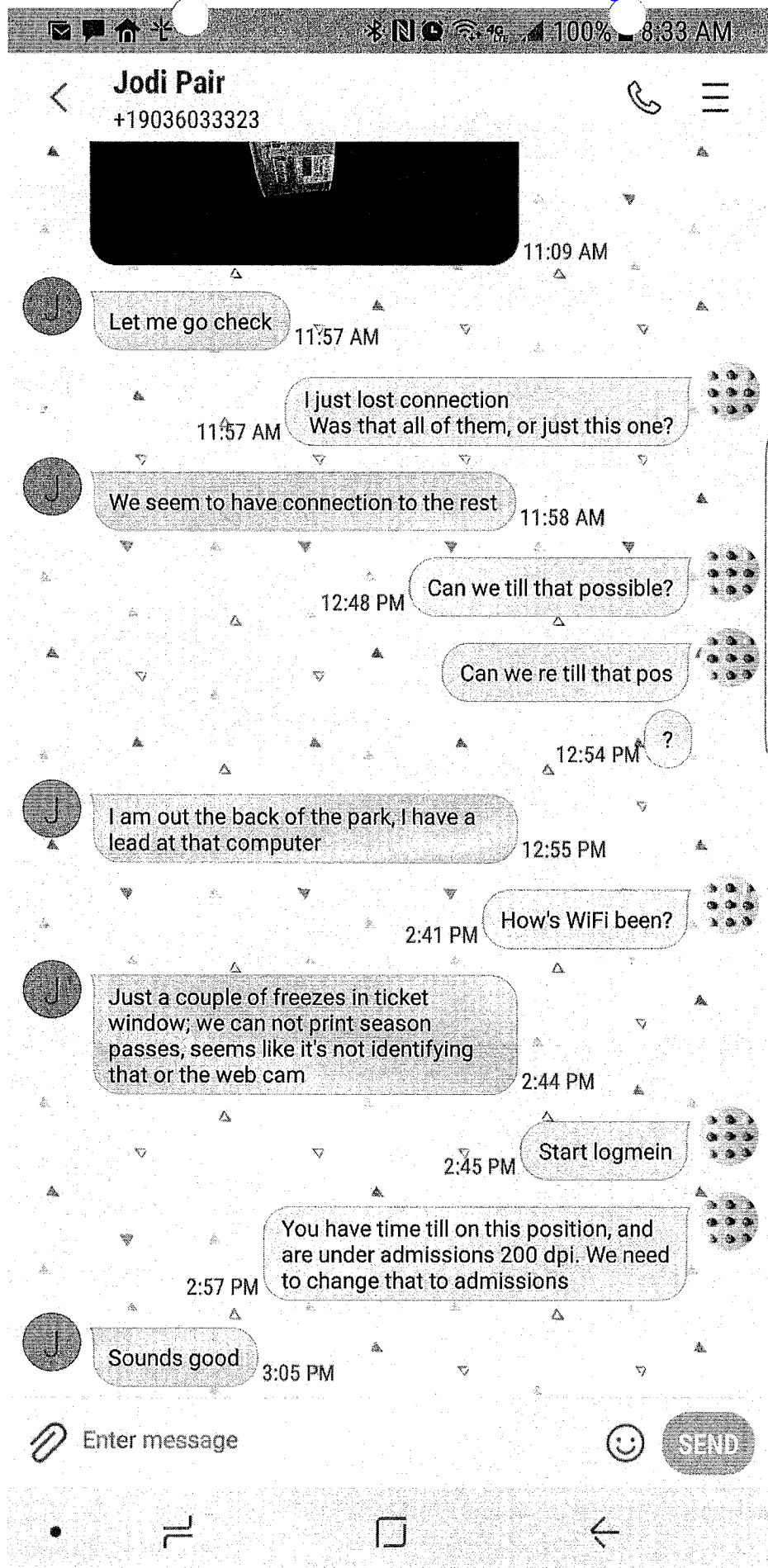


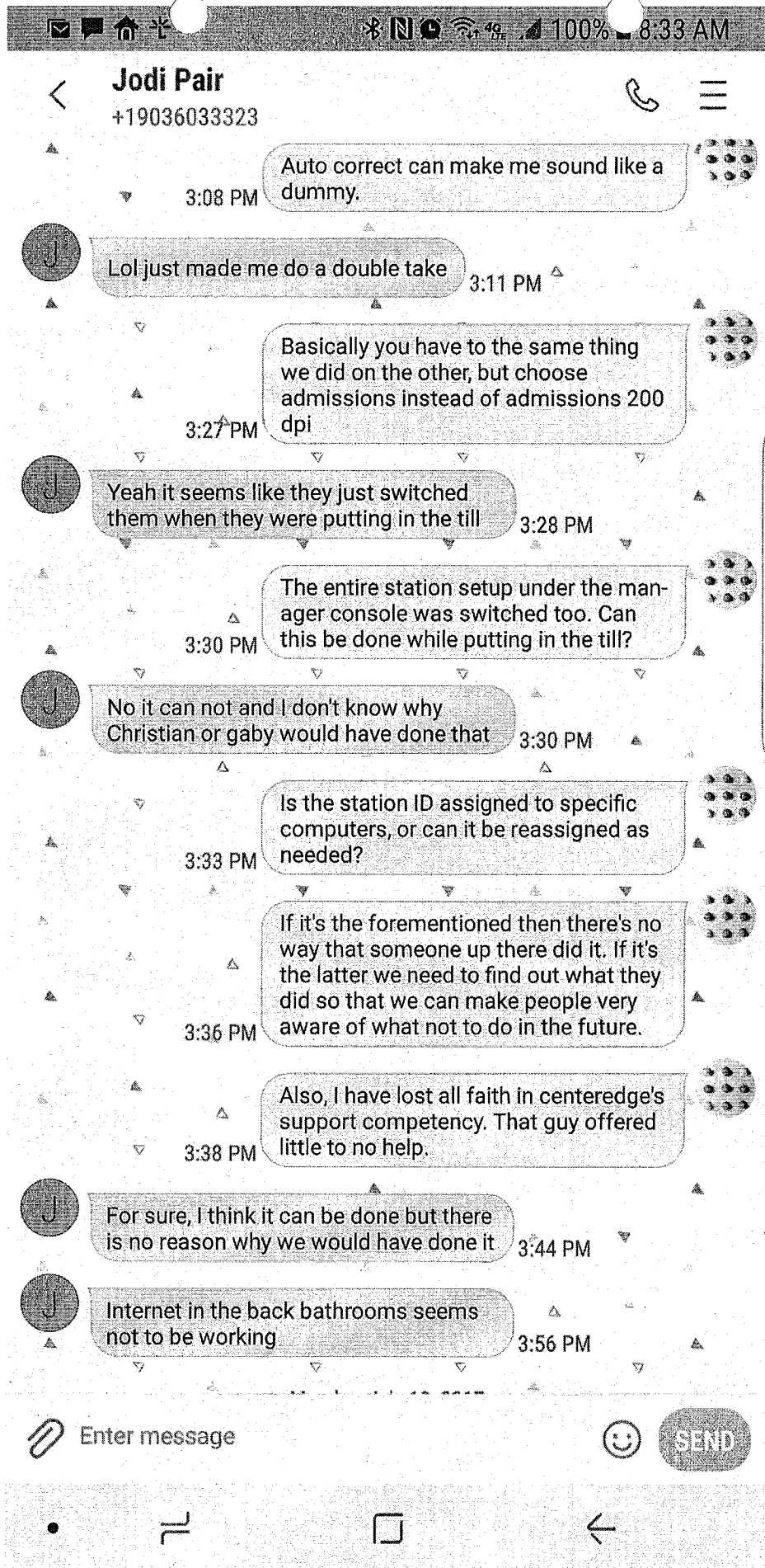


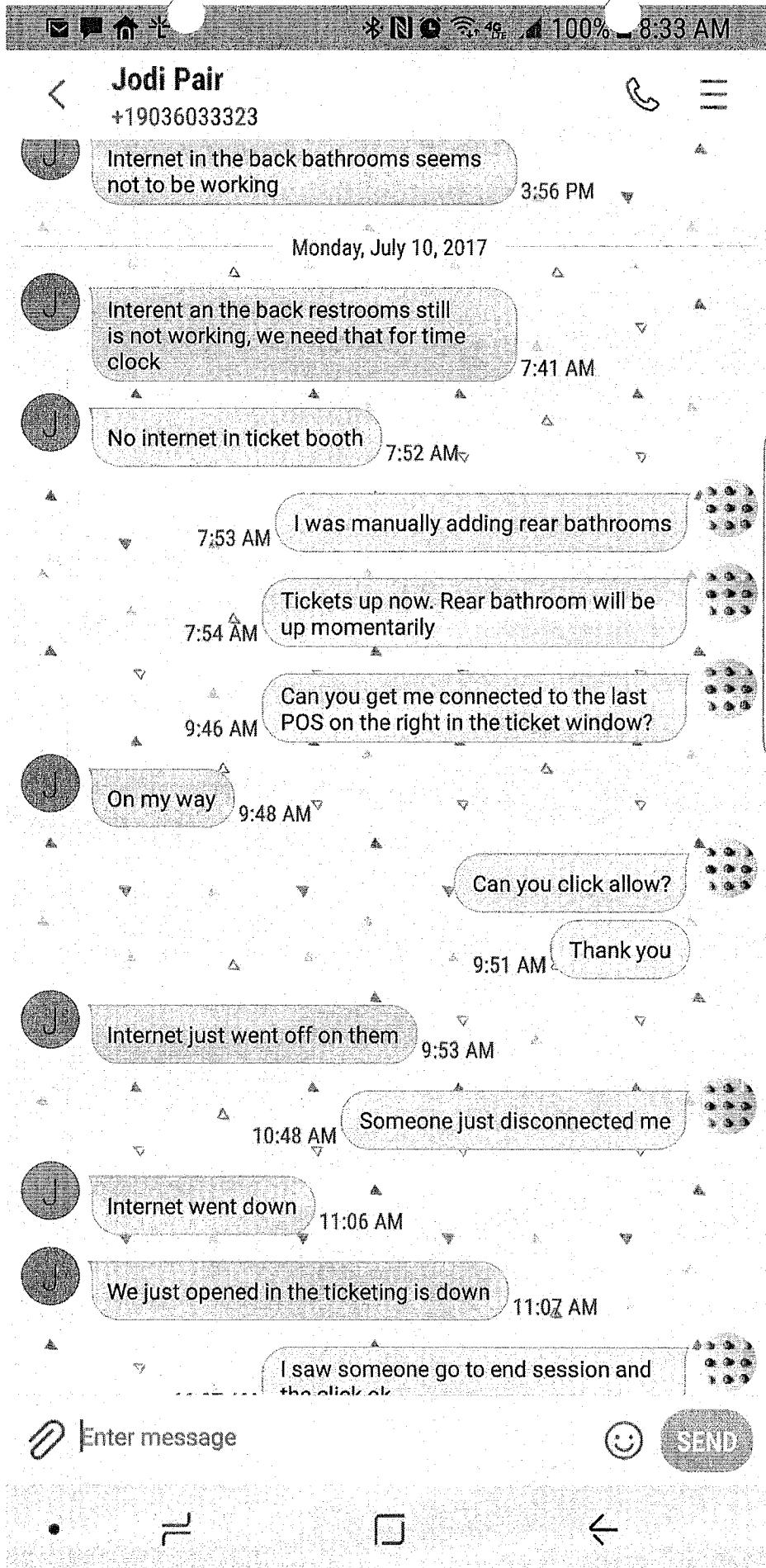


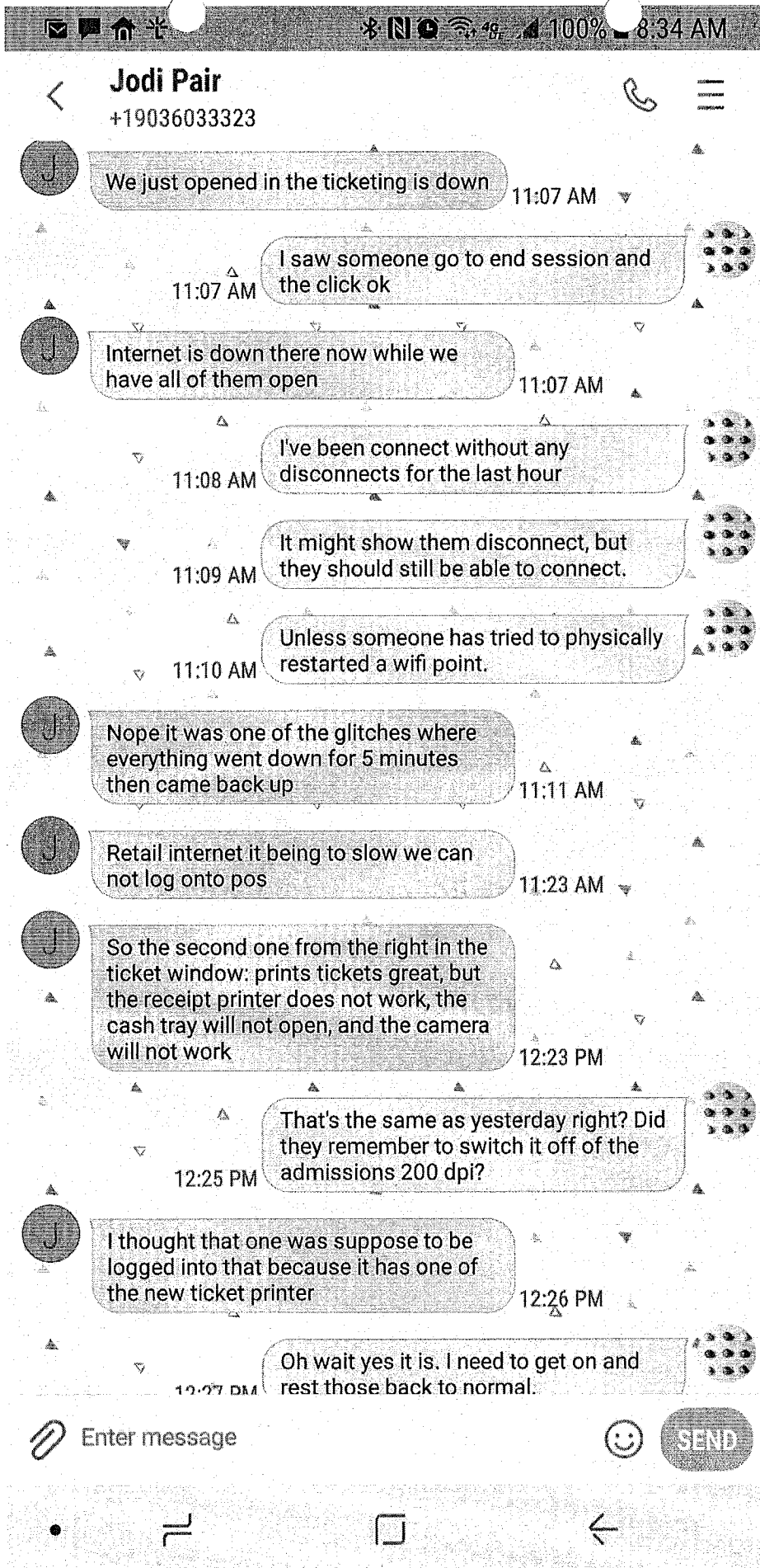


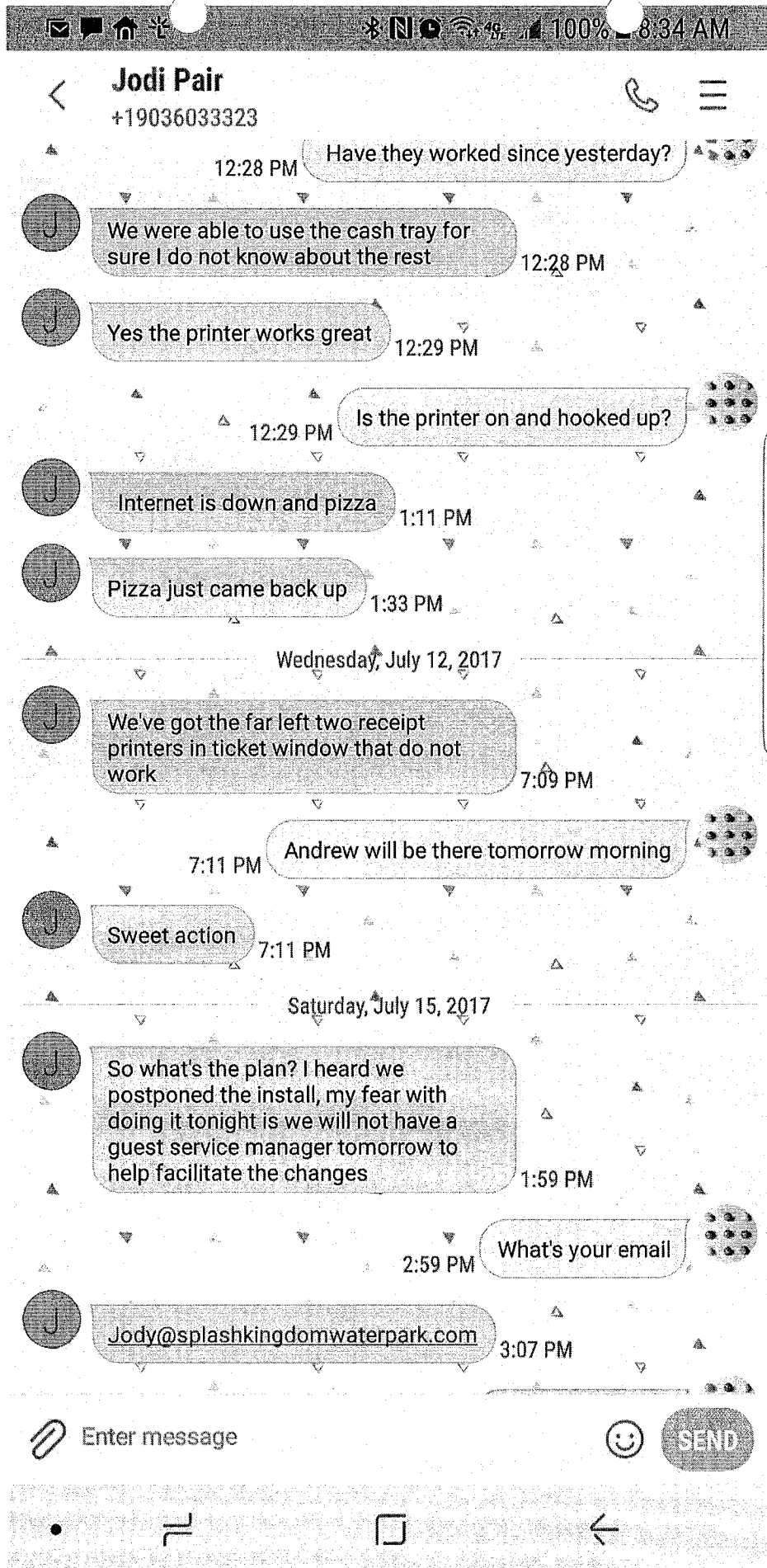


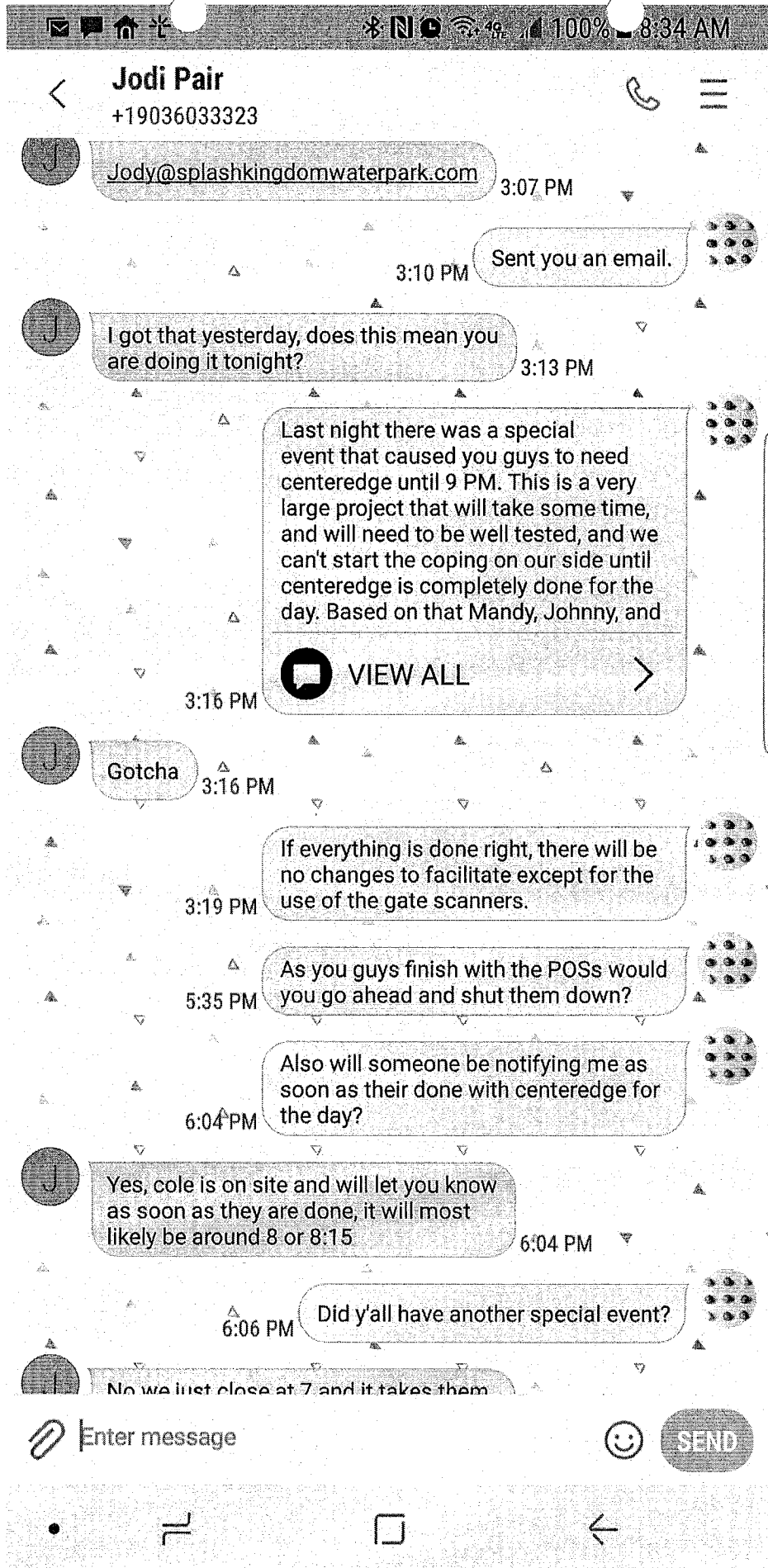


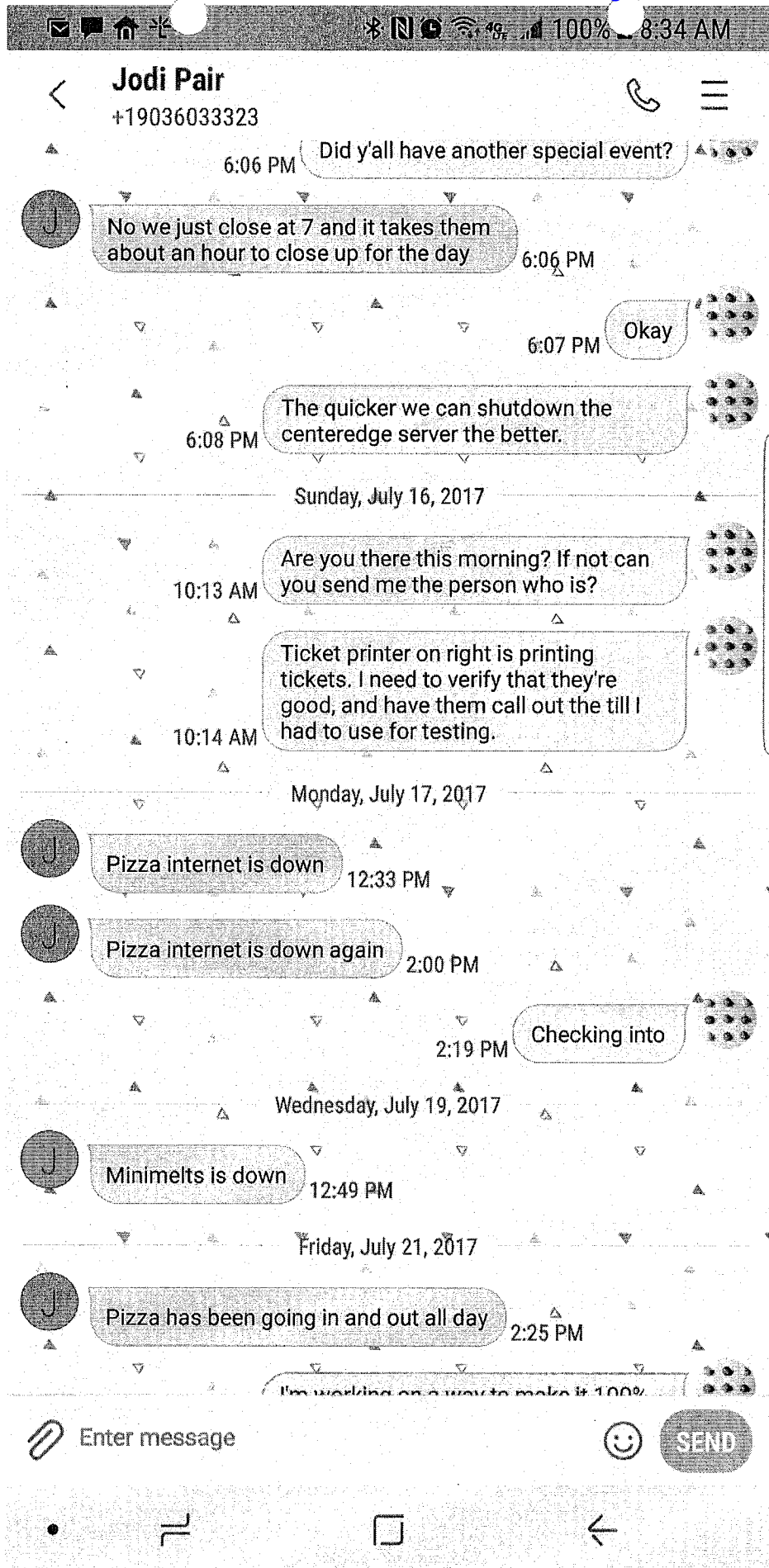


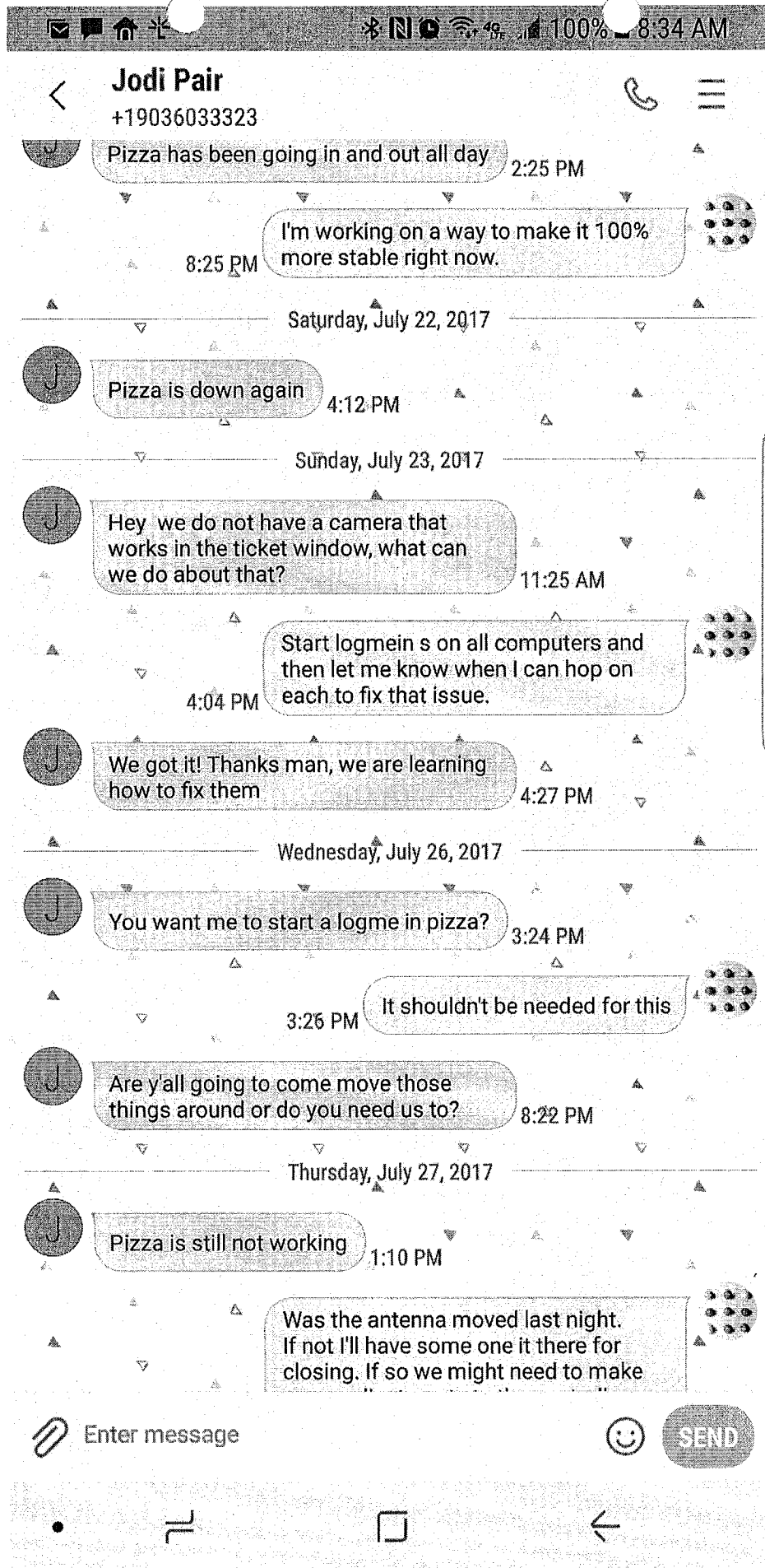


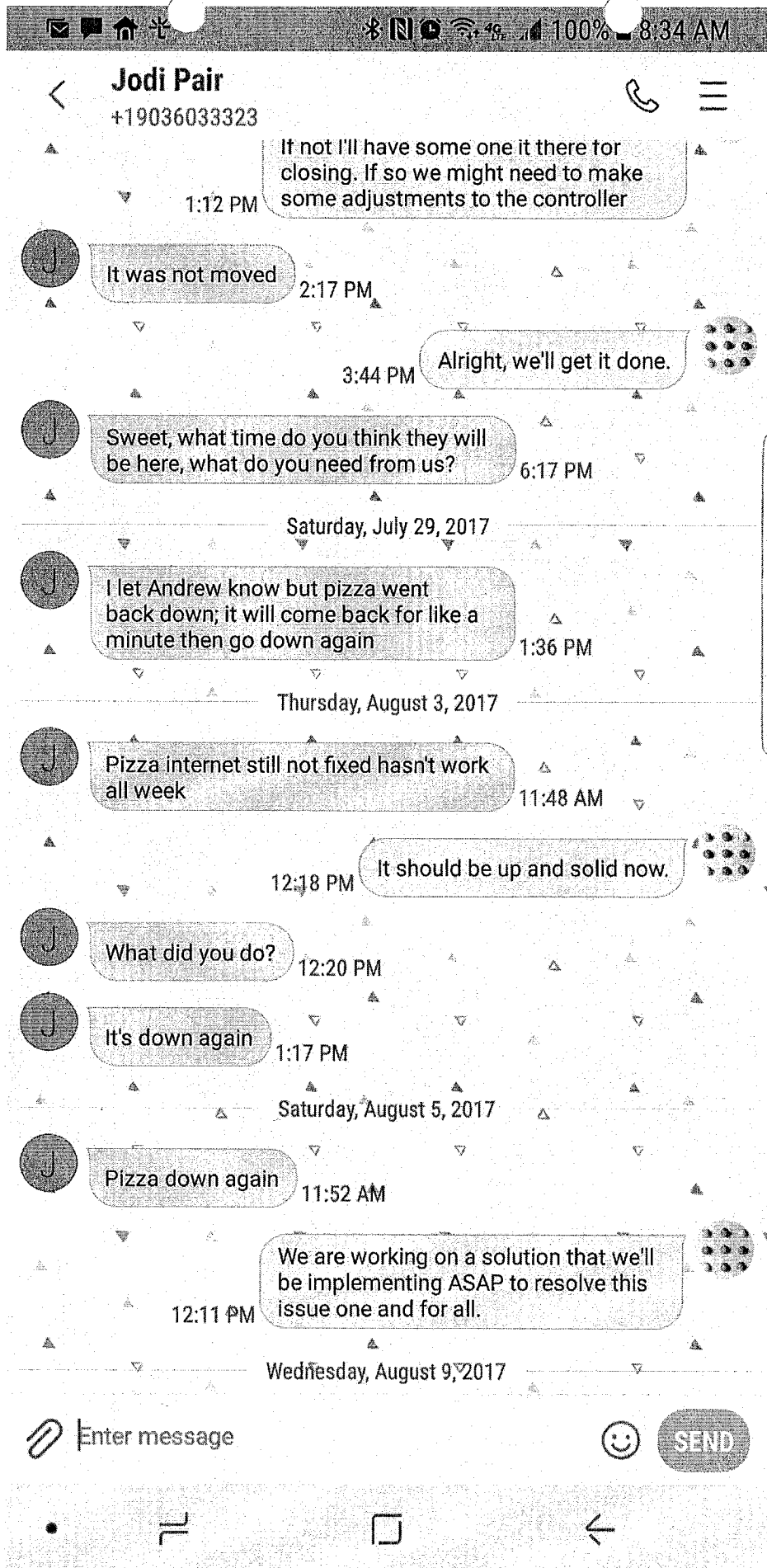


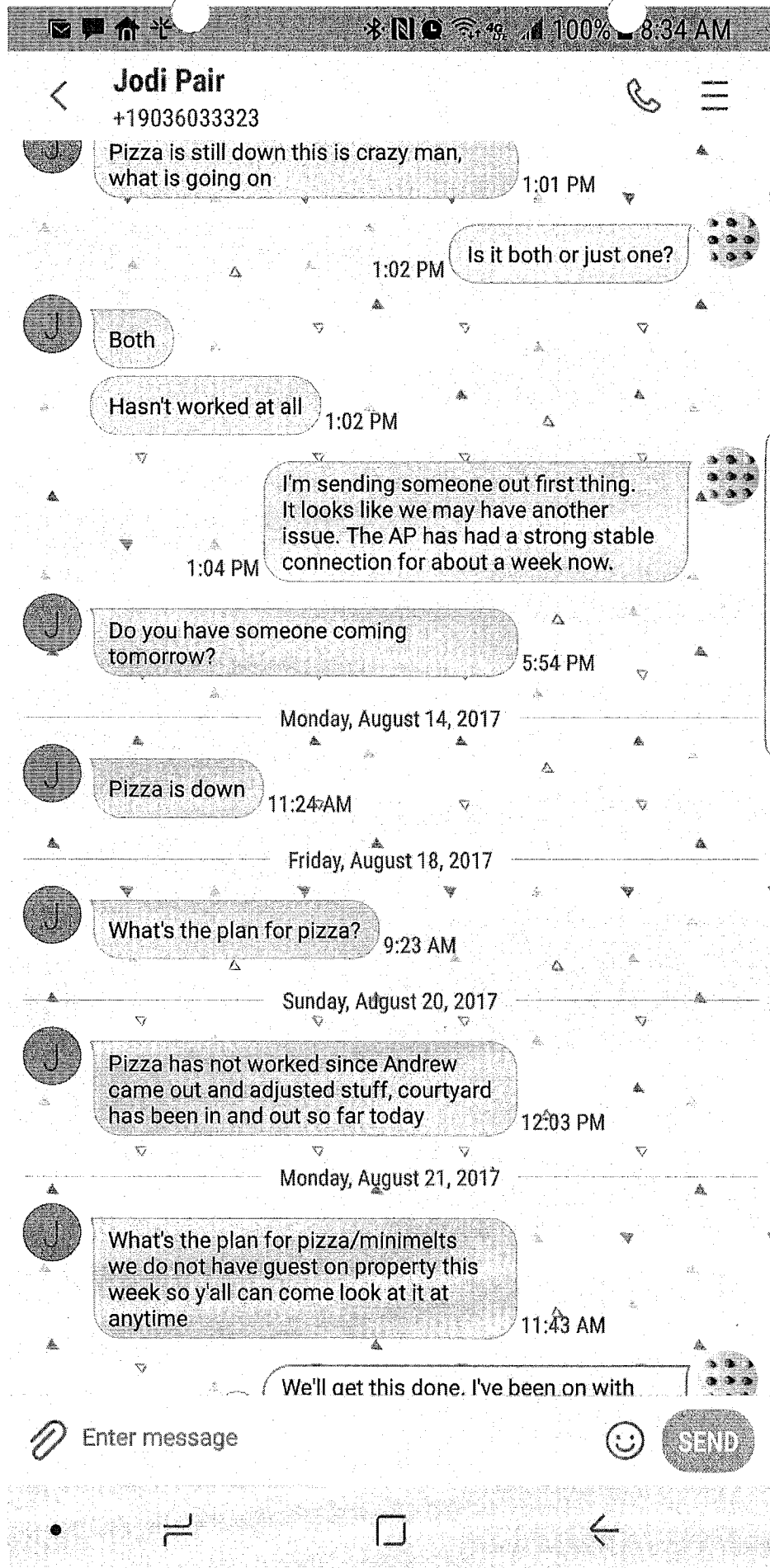


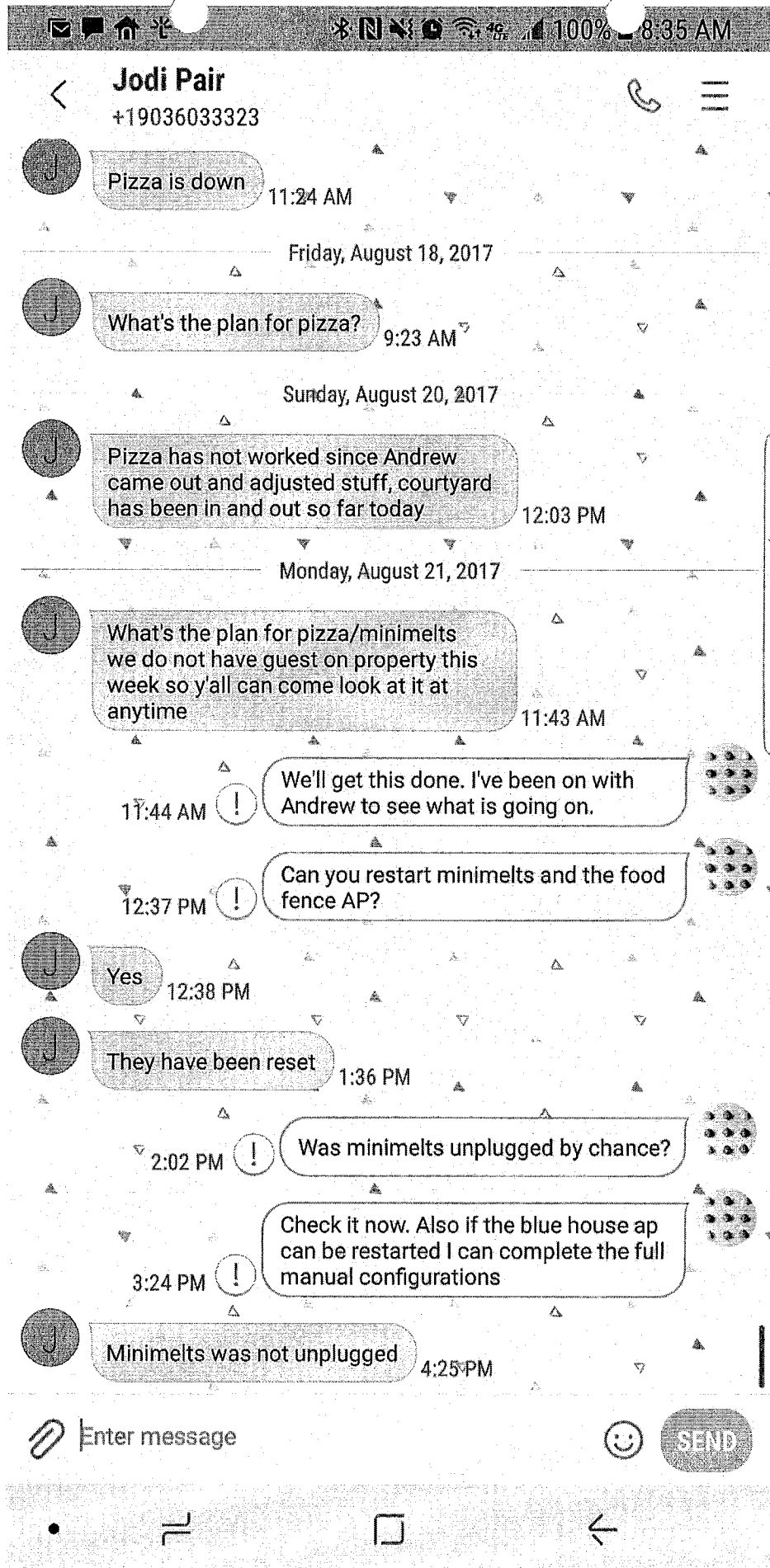




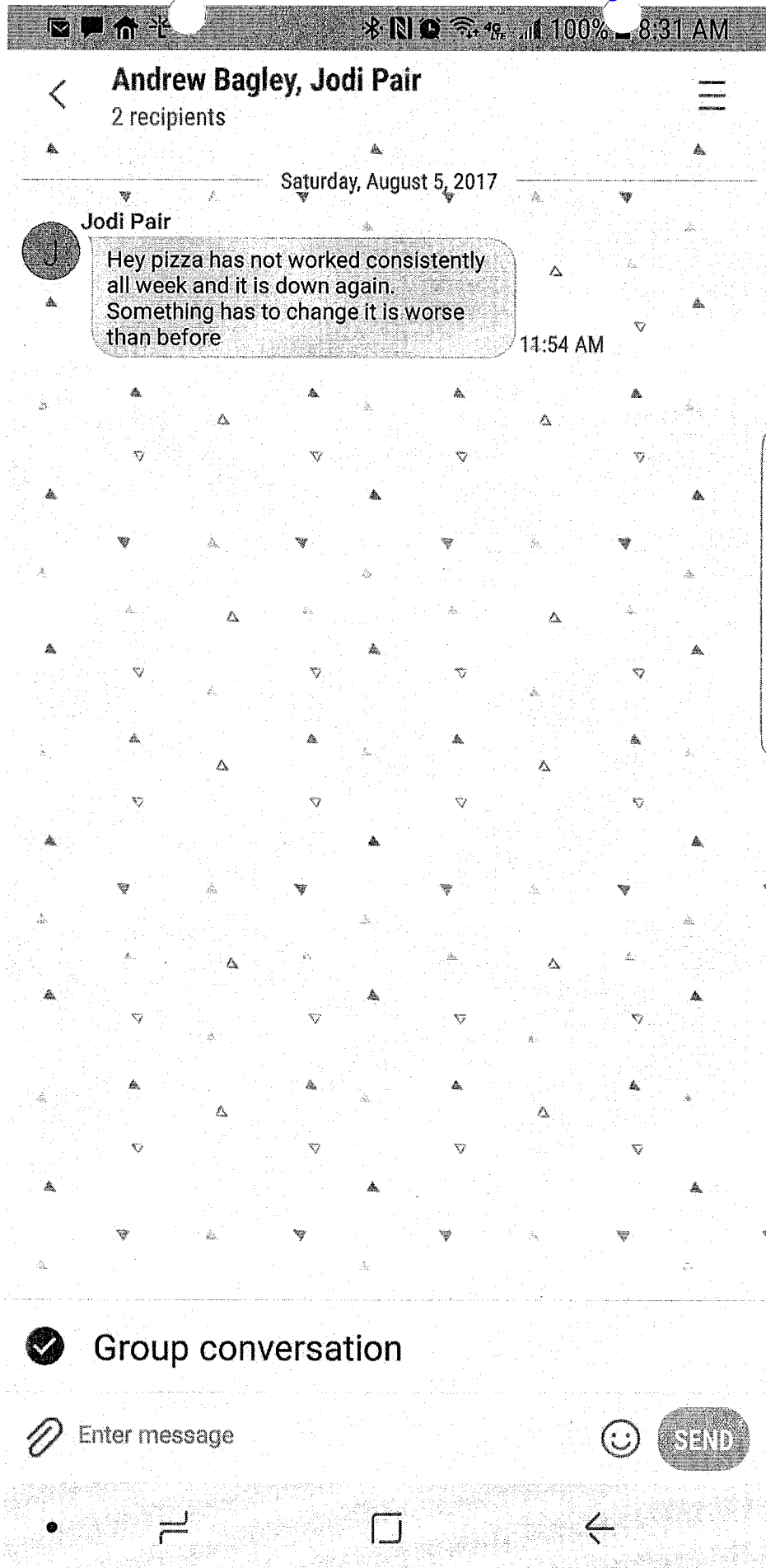




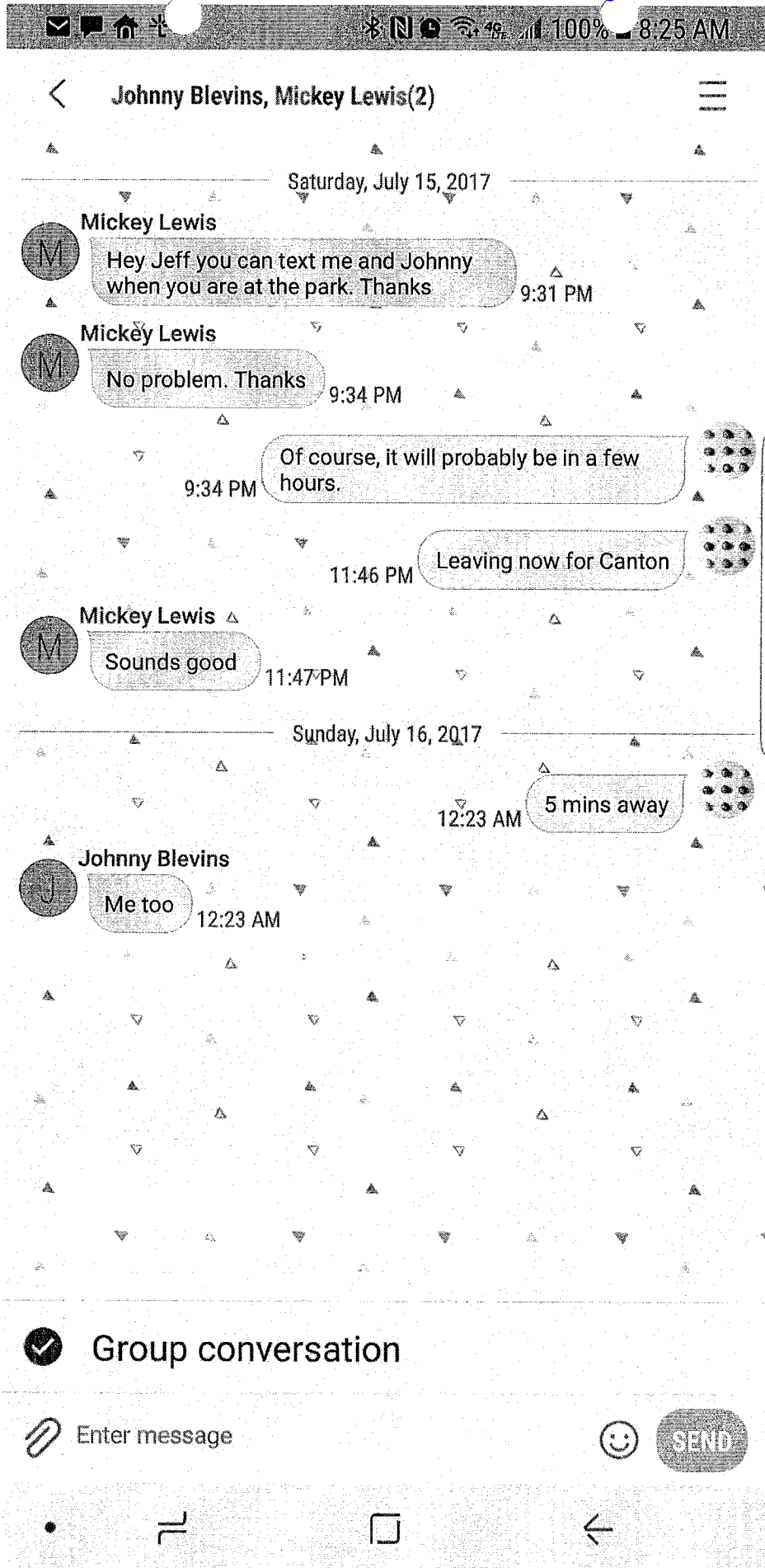




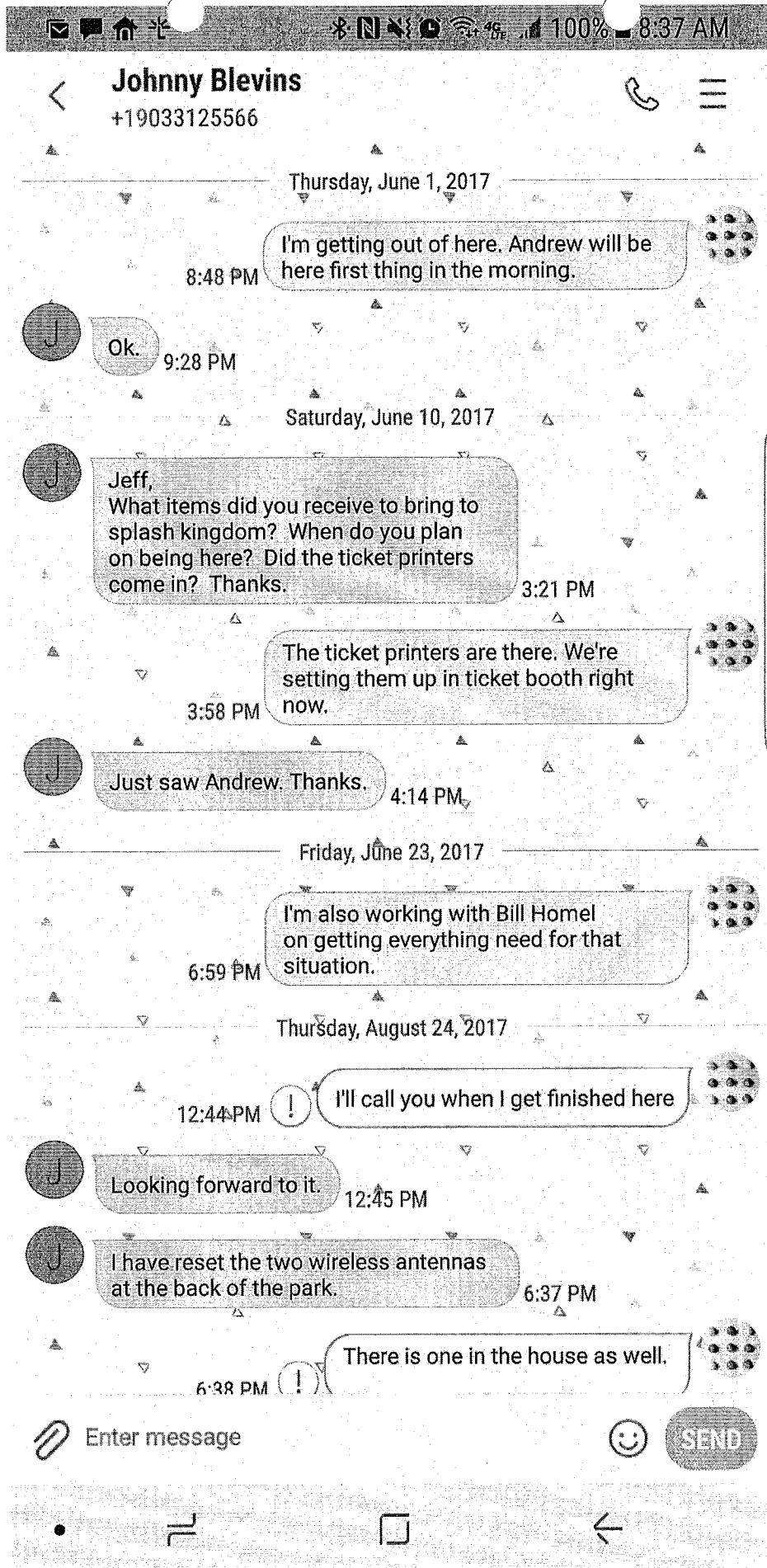
TEXTS
ANDREW BAGLEY, JODI PAIR
AND JEFF PALMER

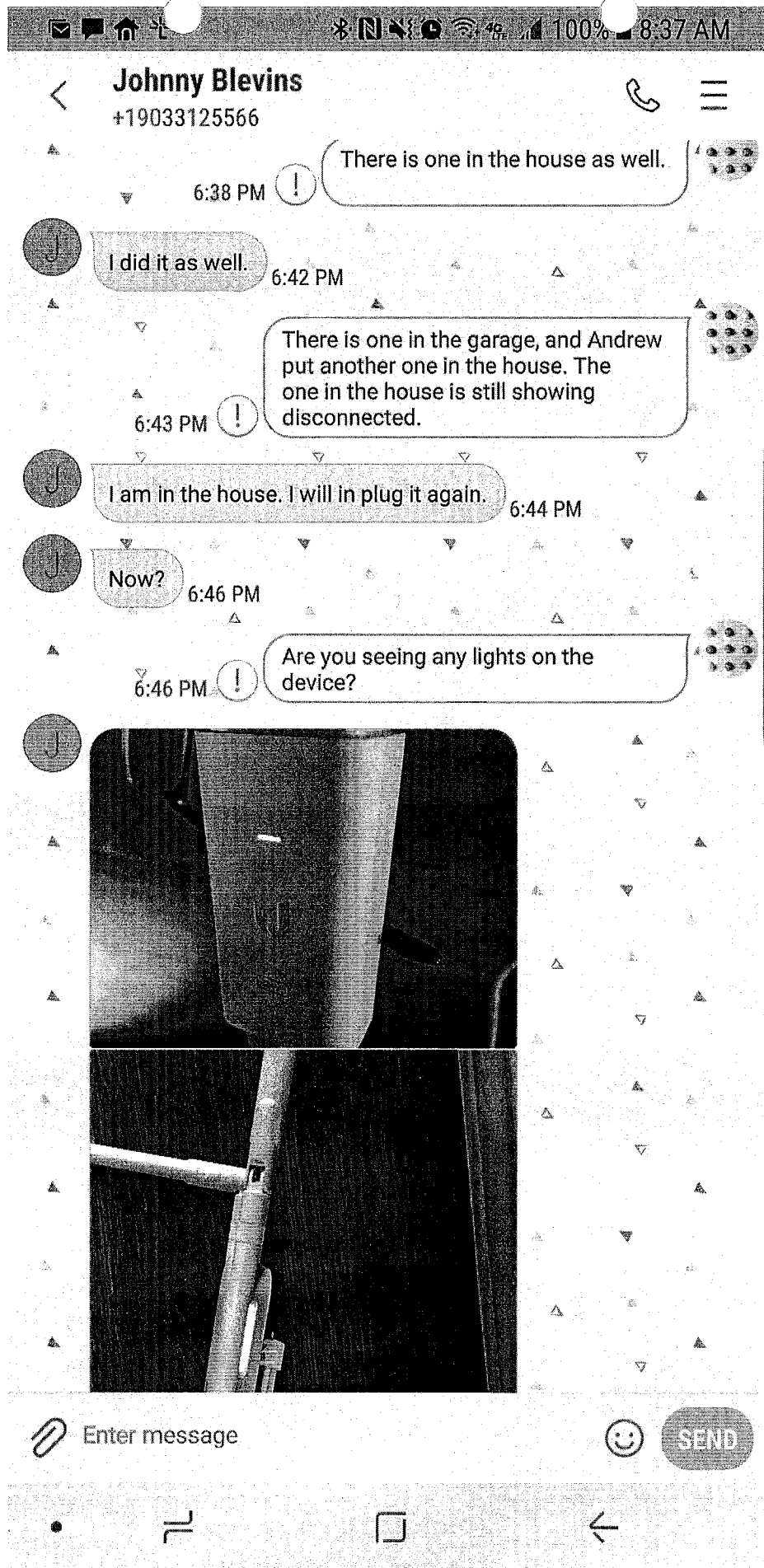


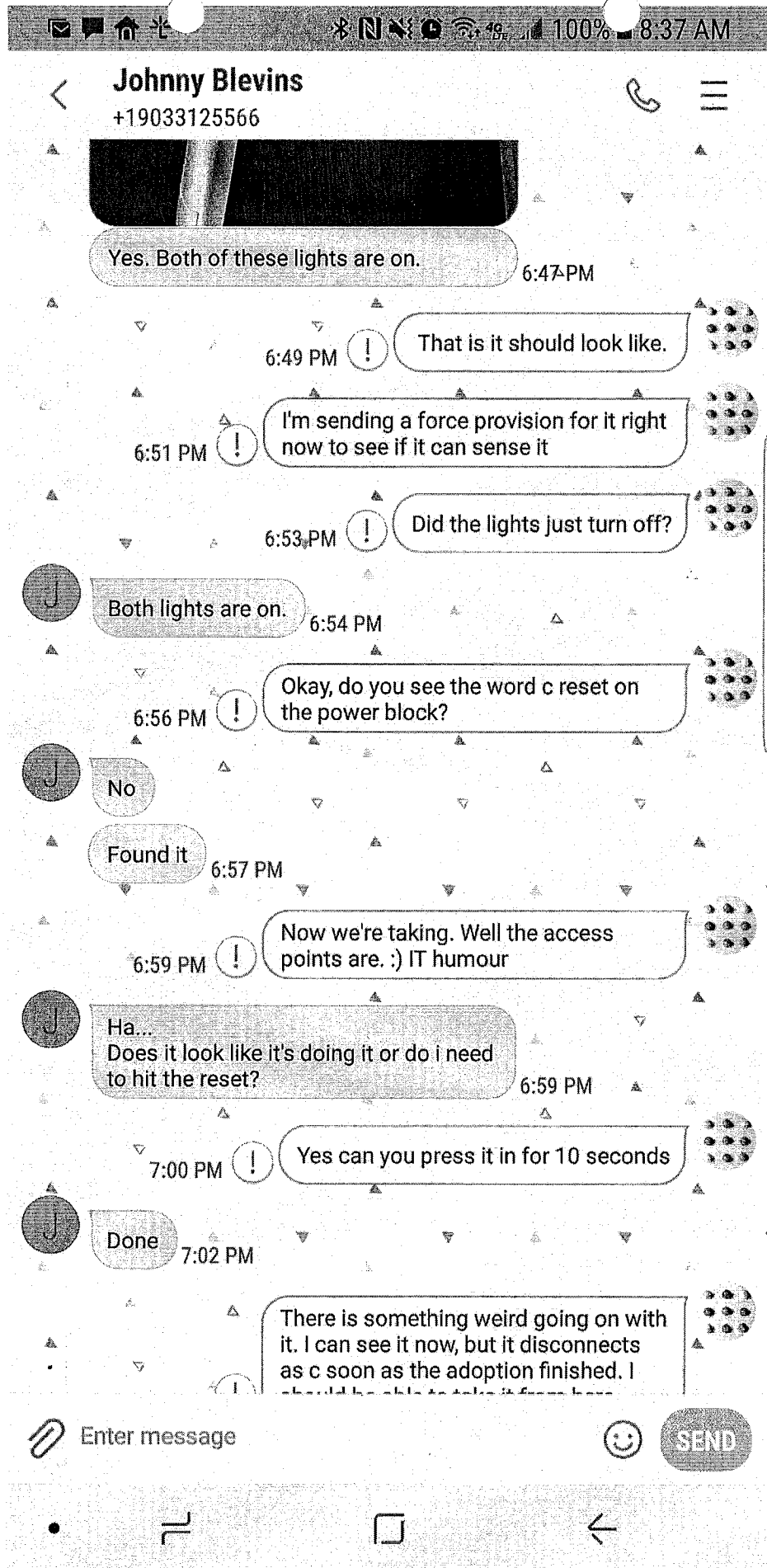
TEXTS
JOHNNY BLEVINS, MICKEY
LEWIS AND JEFF PALMER

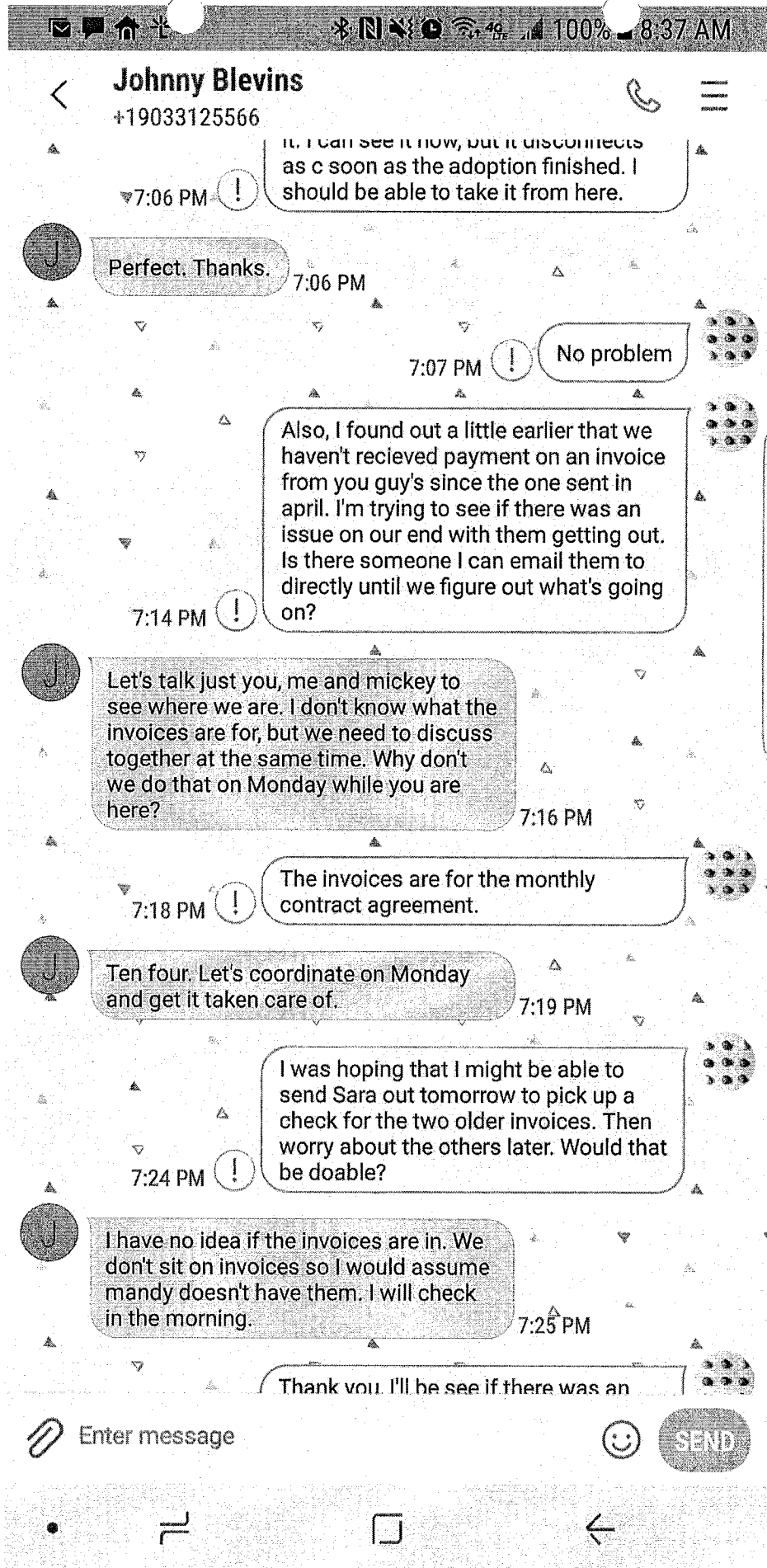


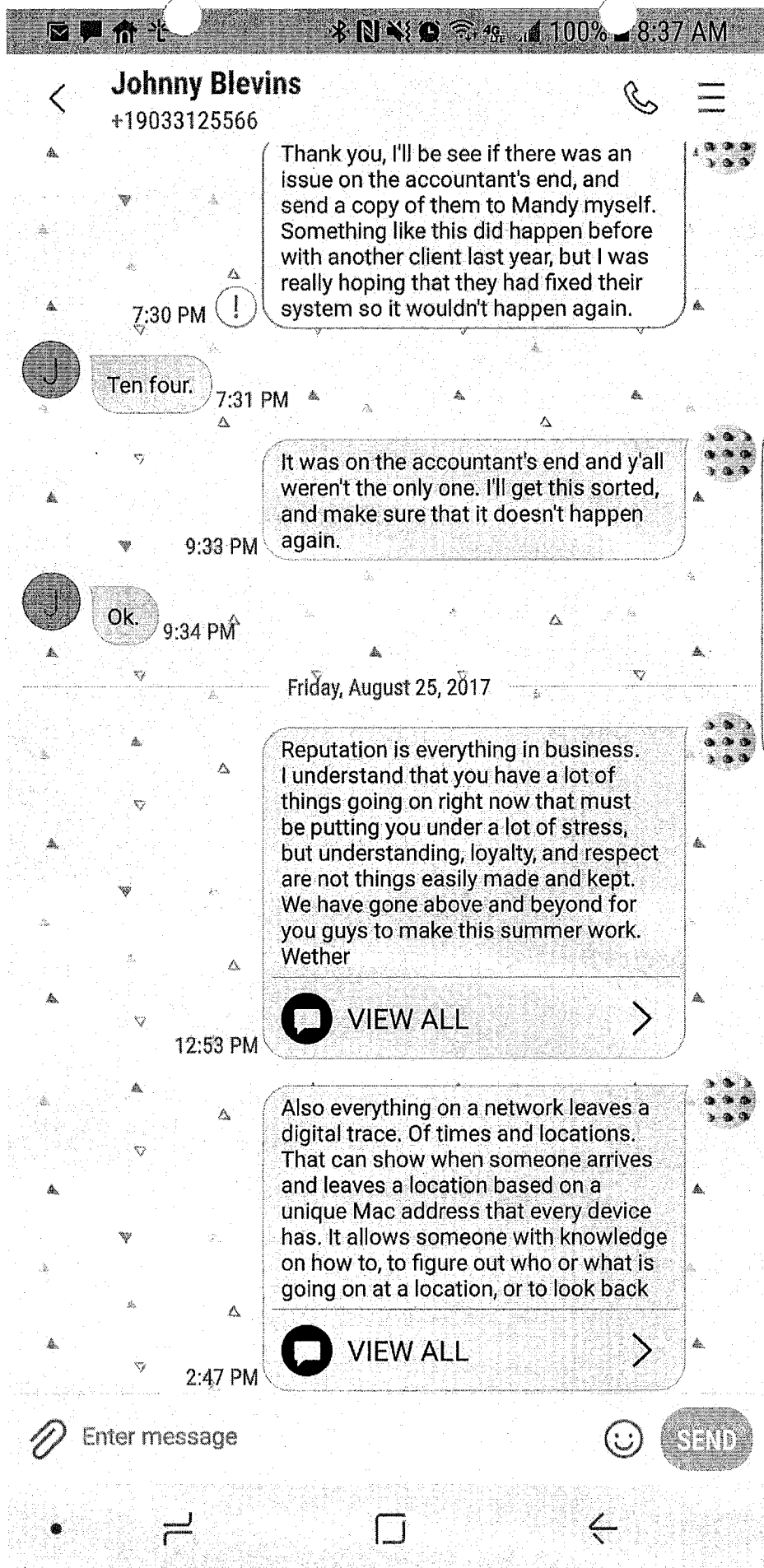
TEXTS
JOHNNY BLEVINS AND JEFF
PALMER

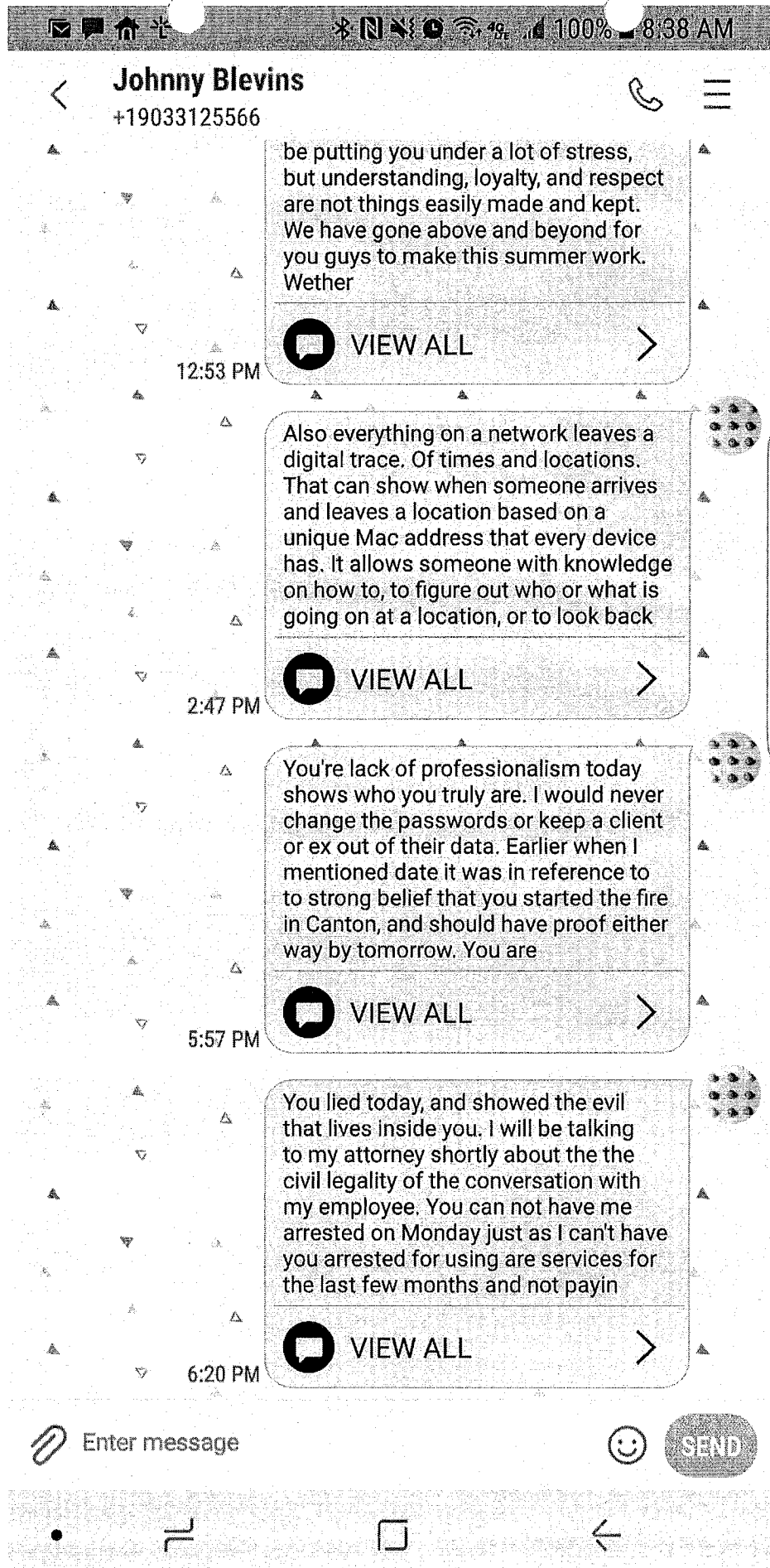












TEXTS
JOHNNY BLEVINS, MICKEY
LEWIS, MANDY McCONNELL
AND JEFF PALMER

